

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 14169 of 2012 (U)

PETITIONER:

**MARTIN CHACKO, S/O.CHACKO ANTONEY,
VALLIKADU HOUSE, NALUKODY,
CHANGANACHERRY, KOTTAYAM DISTRICT-686 548.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

- 1. THE VILLAGE OFFICER,
PERINGARA VILLAGE, THIRUVALLA,
PATHANAMTHITTA DISTRICT-689 101.**
- 2. THE SUB INSPECTOR OF POLICE,
THIRUVALLA POLICE STATION-689 101.**
- 3. TAHSILDAR, TALUK OFFICE,
THIRUVALLA-689 101.**
- 4. THE DISTRICT COLLECTOR,
PATHANAMTHITTA-689 645.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 14169 of 2012 (U)

APPENDIX

PETITIONER(S) EXHIBITS:

- EXHIBIT-P1- TRUE COPY OF THE RELEVANT PAGE OF R.C BOOK.**
- EXHIBIT-P2- TRUE COPY OF THE MAHAZAR DATED 15/06/2012 PREPARED BY THE 1ST RESPONDENT.**
- EXHIBIT-P3- TRUE COPY OF THE NOTIFICATION DATED 22/06/1995.**
- EXHIBIT-P4- TRUE COPY OF THE ORDER OF THIS HON'BLE COURT IN W.P(C) 3519/2011 DATED 03/02/2011.**
- EXHIBIT-P5- TRUE COPY OF THE ORDER THIS HON'BLE COURT IN W.P(C) 7419/2011 DATED 23/03/2012.**

RESPONDENTS' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.14169 of 2012

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Dated this the 2nd day of March, 2015

JUDGMENT

The Tipper Lorry bearing Registration No.KL-6-D-6392 was seized by the 1st respondent alleging offence under the MMDR Act/KMMC Rules. The main ground of challenge is that, the 1st respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 1st respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment

rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4) KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on **19.06.2012**, the vehicle caused to be released, on execution of a simple bond. In the said circumstance, the further course of action required is to surrender the vehicle before the 1st respondent, so as to enable the 1st respondent to produce them before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have it compounded on satisfying the compounding fee of ₹25,000/- within **two weeks** from the date of receipt of a copy of this judgment. Once the offence is compounded, no prosecution

proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police** [2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in compounding the offence, the 1st respondent shall pursue further steps to seize the vehicle and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

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