

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No.10524 of 2015 (M)

PETITIONER:

**MOHANAN,S/O.KUMARAN,AGED 60 YEARS,
RESIDING AT MANJERI HOUSE,
KAIPARAMBU DESOM,KAIPARAMBU VILLAGE,
THRISSUR TALUK,THRISSUR DISTRICT,
(OWNER OF EXCAVATOR HITACHI).**

BY ADV.SRI.P.M.ZIRAJ

RESPONDENT:

**THE VILLAGE OFFICER,CHITTANDA-1 VILLAGE,
THRISSUR DISTRICT,PIN - 688 521.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No.10524 of 2015 (M)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P-1:TRUE COPY OF THE MAHAZAR DATED 27.3.2015 PREPARED BY THE
RESPONDENT.**

**EXT.P-2:TRUE COPY OF RELEVANT PAGE OF BASIC TAX REGISTER ISSUED BY
THE VILLAGE OFFICER, CHITTENDA.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.10524 OF 2015
.....

Dated this the 31st March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- "1) issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent to give an opportunity to the petitioner for compounding alleged offence under Rule 32 of the Kerala Minerals (Prevention of illegal mining, storage and transportation) Rules, 2015*
- 2) Direct the respondent to release the excavator Hitachi of the petitioner to the petitioner after compounding the offence.*
- 3) issue such other writ or orders or directions, which the Honourable Court may deem fit and proper in the the interest of justice and circumstances of the case. ."*

2. Petitioner is the owner of the vehicle excavator Hitachi- which has been seized by the respondent/ Village Officer, alleging violation of the provisions under Kerala Minerals (Prevention of illegal mining, storage and transportation) Rules 2015. The learned Counsel for the petitioner submits that the petitioner is ready to compound the offence.

3. The issue involved in this case is, whether the

petitioner, who has been proceeded against in respect of the offences under the Mines and Mineral (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 1967 is entitled to have the offence compounded in view of the desire expressed from his side in this regard.

4. Heard the learned Government Pleader as well.

5. Section 23A of the 'Act and Rule 60A of the Rules enable the parties to have the offence compounded. The Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs.5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' itself by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. The maximum fine in respect of such offence prescribed under the 'Act' is stated as **Rs.25,000/-**. It was in the said circumstance, that this Court has been passing various orders in connected similar matters enabling the concerned petitioners to have the interim custody of the vehicle released on satisfaction of a sum of **Rs.25,000/-** and

also by directing the concerned respondent to consider the application for compounding, if any.

6. A question arose before this Court as to whether the prosecution proceedings could be pursued further, once the offence is compounded in accordance with the relevant provisions. This issue has already been considered and decided by this Court in **2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**, holding that, once the offence is compounded, there cannot be any further prosecution proceedings.

7. In view of the law declared as mentioned herein before, there will be a direction to the concerned respondent to accept the application filed by the petitioner to compound the offence; which shall be considered and appropriate orders shall be passed forthwith, subject to satisfaction of a sum of **Rs.25000/-** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioner.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE