

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 14254 of 2013 (F)

PETITIONER :

**VISWANATHAN T.S.,
S/O.SREEDHARAN, AGED 47 YEARS
THELLIYANKAL HOUSE, KARIMANNOOR
THODUPUZHA, IDUKKI DISTRICT.
(REGISTERED OWNER OF AN EXCAVATOR/JCB BEARING REGISTRATION
NO.KL-38C/2076 & MINI LORRY BEARING REGISTRATION
NO.KL-38B/5174.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR
IDUKKI, PIN 685602.**
- 2. THE TAHSILDAR
TALUK OFFICE, THODUPUZHA, PIN 685584.**
- 3. THE SUB INSPECTOR OF POLICE
KARIMKUNNAM POLICE STATION, IDUKKI DISTRICT
PIN – 685 586.**

R1 TO R3 BY GOVT. PLEADER SRI. M. MUHAMMED SHAFI

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

Mn

...2/-

WP(C).No. 14254 of 2013 (F)

APPENDIX

PETITIONERS' EXHIBITS :

- EXHIBIT-P1: TRUE COPY OF THE ORDER ISSUED BY THE STATE HORTICULTURE MISSION, KERALA DATED, 14.12.2012.
- EXHIBIT-P2: TRUE COPY OF THE DIRECTION ISSUED BY THE PRINCIPAL, AGRICULTURAL OFFICER, IDUKKI TO THE PETITIONER DT. 14.12.2012.
- EXHIBIT-P3: TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE 3RD RESPONDENT DATED. 29.5.2013.
- EXHIBIT-P4: TRUE COPY OF THE INTERIM ORDER DATED. 3.6.2011 IN W.P.(C) NO.15058/2011 OF THIS HON'BLE COURT.
- EXHIBIT-P5: TRUE COPY OF THE INTERIM ORDER DATED. 11.3.2011 IN W.P.(C) NO.7689/2011 OF THIS HON'BLE COURT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

P.R. RAMACHANDRA MENON J.

W.P.(C) No.14254 of 2013

Dated, this the 3rd day of March, 2015

JUDGMENT

The vehicles bearing No.**KL-38-C/2076** and **KL-38B/5174** were seized by the **3rd respondent** alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the 3rd respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 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 **11.6.2013**, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/-** for each vehicle and **on execution of a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicle before the concerned respondent, so as to enable the respondent to produce it 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 the offence compounded on satisfying the compounding fee of Rs.25,000/- for each vehicle. The amount ordered to be paid as per the interim order dated **11.6.2013** shall be treated

as compounding fee and offence shall be treated as compounded. 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 satisfying the compounding fee, the respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
JUDGE**

rkc