

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936**

**WP(C).No. 12107 of 2014 (K)**  
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**PETITIONER(S):**  
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- 1. DAMODARAN, S/O.VELUNNY, 63 YEARS,  
VADAKATH HOUSE, KANDANASSERY P.O,  
THRISSUR DISTRICT.**
- 2. MANOHARAN P.C, PALLIPURATH HOUSE,  
PERINJANAM P.O, KODUNGALLOOR VIA,  
THRISSUR DISTRICT.**

**BY ADV. SRI.SHOBY K.FRANCIS**

**RESPONDENT(S):**  
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- 1. SUB INSPECTOR OF POLICE,  
PAVARATTY POLICE STATION,  
PAVARATTYPO,THRISSUR DISTRICT - 680001.**
- 2. GEOLOGIST, OFFIC OF THE GEOLOGIST,  
DEPARTMENT OF THE MINING AND GEOLOGY,  
THRISSUR - 680003.**

**BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**mbr/**

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**APPENDIX**

**PETITIONER(S)' EXHIBITS:**

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**EXHIBIT P1A: TRUE COPY OF THE REGISTERED CERTIFICATE DATED 22-11-2007  
OF THE VEHICLE KL-46/A 3493.**

**EXHIBIT P1B: TRUE COPY OF THE REGISTERED CERTIFICATE DATED 29-06-2010 OF  
THE VEHICLE KL-19A 6900.**

**EXHIBIT P2: TRUE COPY OF THE SEIZURE MAHAZAR DATED 2-5-2014 ISSUED BY  
THE 1ST RESPONDENT TO THE PETITIONERS VEHICLES KL-46/A-3493  
AND KL-19/A 6900.**

**EXHIBIT P3A: TRUE COPY OF THE REQUEST DATED 3-5-2014 SUBMITTED BY THE  
1ST PETITIONER TO THE 2ND RESPONDENT.**

**EXHIBIT P3B: TRUE COPY OF THE REQUEST DATED 3-5-2014 SUBMITTED BY THE  
2ND PETITIONER TO THE 2ND RESPONDENT.**

**RESPONDENT(S)' EXHIBITS: - NIL**

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**/TRUE COPY/**

**P.S. TO JUDGE**

**mbr/**

**P.R. RAMACHANDRA MENON, J.**

.....  
**W.P.(C)No.12107 OF 2014**  
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**Dated this the 4<sup>th</sup> March, 2015**

**J U D G M E N T**

The vehicles bearing No. **KL.46A/3493 and KL.19/A-6900** were seized by the **first respondent/S.I. of Police** 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 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 **09.05.2014**, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/- and on execution of a simple bond**. In the said circumstance, the further course of action required is to surrender the vehicles before the first respondent, so as to enable the first 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 petitioners express 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 petitioners 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 **09.05.2014** 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.

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

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