

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 12173 of 2014 (V)

PETITIONER(S):

**ANIMON.V AGED 44 YEARS,
S/O.LATE VIJAYAN, RESIDING AT CHITHIRA,
VALLIKUNNAM VILLAGE, MAVELIKKARA PINCODE-690 501.**

**BY ADVS.SRI.M.G.SREEJITH
SRI.ABDUL JALEEL ONATH**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY, HOME DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. SUB INSPECTOR OF POLICE,
VALLIKUNNAM POLICE STATION,
ALAPPUZHA DISTRICT - PIN-690 501.**

R BY GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 12173 of 2014 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 27.4.2007.

**EXHIBIT P2- A TRUE COPY OF THE PROCEEDINGS OF GEOLOGIST, DEPARTMENT OF
MINING AND GEOLOGY, DISTRICT OFFICE, CHERTHALA, ALAPPUZHA,
DATED 28.04.2014.**

**EXHIBIT P3- TRUE CASH MEMORANDUM FOR THE PARTICULAR LOAD DATED
05.05.2014.**

EXHIBIT P4- TRUE COPY OF THE MAHAZAR DATED 05.05.2014.

EXHIBIT P5- TRUE COPY OF ORDER DATED 21.03.2014 in W.P.C.NO.7454/2014.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R. RAMACHANDRA MENON J.

W.P.(C) No.12173 of 2014

Dated, this the 10th day of March, 2015

JUDGMENT

The vehicle bearing No. **KL-38-3493** was seized by the **2nd 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 2nd 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 **9.5.2014**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/-**. In the said circumstance, the further course of action required is to surrender the vehicle before the 2nd respondent, so as to enable the 2nd 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/-. The amount ordered to be paid as per the interim order dated **9.5.2014** 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.

Sd/-

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

rkc