

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 15058 of 2011 (F)

PETITIONER(S):

**HAREESH, S/O.NANU, AGED 32 YEARS,
KUTTIYILPOYIL HOUSE, KAKKATTIL, KUTTIYADI,
KOZHIKODE DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
KOZHIKKODE - 673 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
KOZHIKKODE - 673 001.**
- 3. THE DEPUTY THASILDAR,
SPECIAL SQUAD, KOYILANDI, KOZHIKODE DISTRICT,
PIN - 673 305.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 15058 of 2011 (F)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE THIRD
RESPONDENT DTD.6.5.011.**

**EXT.P2: TRUE COPY OF THE INTERIM ORDER DTD.3.4.2009 IN WP(C) NO.11206/2009
OF THIS HON'BLE COURT.**

**EXT.P3: TRUE COPY OF THE INTERIM ORDER DTD.20.10.2010 IN WP(C) NO.32085/2010
OF THIS HON'BLE COURT.**

**EXT.P4: TRUE COPY OF THE INTERIM ORDER DTD.22.12.2010 IN WP(C) NO.38246/2010
OF THIS HON'BLE COURT.**

**EXT.P5: TRUE COPY OF THE INTERIM ORDER DTD.11.3.2011 IN WP(C) NO.7689/2010
OF THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

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Dated, this the 9th day of March, 2015

JUDGMENT

The vehicle bearing No. **KL 18 F 1915** was seized by the **3rd respondent/Deputy Tahasildar** 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 3rd 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 03.06.2013, the vehicle was 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 3rd respondent, so as to enable the 3rd 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 it compounded on satisfying the compounding fee of Rs.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

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reported. If there is any failure in compounding the offence, the 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)**

kmd