

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 18TH DAY OF JUNE 2015/28TH JYAISHTA, 1937

WP(C).No. 12147 of 2015 (P)

PETITIONER :

**MOHAMMED K.P.,
S/O.ABDUL KHADER, KOYIPARAMBATH VEETIL,
PARANNOOR P.O., VIA. NARIKKUNI,
KOZHIKODE DISTRICT.**

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENTS :

- 1. THE DISTRICT COLLECTOR,
THRISSUR – 680 003.**
- 2. HIGHWAY POLICE, KODUNGALLOOR,
KJODUNGALLOOR POLICE STATION-680 624.**

***ADDL. R3 IMPEADED**

***ADDL.R3. THE REVENUE DIVISIONAL OFFICER
THRISSUR, CIVIL STATION, AYYANTHOLE
THRISSUR.**

***ADDL.R3 IS IMPEADED AS PER ORDER IN IA NO. 5903/2015
DATED 18/06/2015**

R1 TO R3 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Mn

...2/-

WP(C).No. 12147 of 2015 (P)

APPENDIX

PETITIONERS' EXHIBITS :

- EXT. P1:- TRUE COPY OF THE SALE AGREEMENT DTD 10/2/2014 OF THE SAID
VECHCLE NO. KL10 AH 6399 (2011 MODEL).**
- EXT. P2:- TRUE COPY OF THE VEHICLE PASS ISSUED TO LIJESH,
SREENILAYAM, MALUR, KOOOTHUPARAMBU.**
- EXT. P3:- TRUE COPY OF THE RETAIL INVOICE ISSUED BY THE KOCHI TALUK
LABOUR CONTRACT CO -OPERATIVE SOCIETY TO THE PETITIONER.**
- EXT. P4:- TRUE COPY OF THE CASH BILL FOR THE REPAIR ISSUED BY THE
FRIENDS AUTO GUARRAGE, KUNNAMANGALAM.**
- EXT. P5:- COPY OF THE F.I.R. NO. 779/2015 DATED 31.3.2015 REGISTERED BY
THE KODUNGALLOOR POLICE STATION.**
- EXT. P6:- COPY OF THE SEIZURE MAHAZAR DATED 31.3.2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J.

W.P.(C) No. 12147 of 2015 (P)

Dated this the 18th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner's vehicle has been seized by the 2nd respondent on an allegation of transportation of river sand alleging offence under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

2. The petitioner's contention is that the petitioner had purchased dredged sand from a Co-operative Society entitled to deal with it, as authorised by the Port and it was this transport that was detained by the 2nd respondent. The vehicle pass issued by the Port is produced at Ext.P2 and the invoice issued by the Society is produced at Ext.P3. The petitioner's contention is that the vehicle broke down and he had to get it repaired and that was the reason for the delay in transportation.

3. However, these are all matters which cannot be considered under Article 226 of the Constitution of India and it may not be proper for this Court to release the vehicle on the mere assertion of the petitioner that the delay in transport occurred only by reason of break down of the vehicle. In any event, it is now submitted that documents are produced before the additional 3rd respondent. On the allegation that the petitioner was transporting river sand, the learned Government Pleader, on instructions, would submit that the exact nature of the goods transported will be revealed only on an analysis being made.

4. In such circumstance, the petitioner shall make an application for sending the goods transported for analysis, the expenses of which shall be borne by the petitioner. The R.D.O., on such application being made, shall direct the sample to be taken by the appropriate authority and an analysis to be conducted. The interim custody of the vehicle

shall also be considered by the R.D.O. on an application being filed as declared in **Shan C.T. v. State of Kerala - 2010 (3) KLT 413**. The petition for analysis and application for interim custody shall be considered expeditiously at any rate within two days from the date of filing of the same.

Writ petition is disposed of, making it clear that this Court has not observed anything on the merits of the issue.

Sd/-
K.VINOD CHANDRAN,
JUDGE