

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12156 of 2015 (T)

PETITIONER(S):

- 1. ABDUL SHAREEF, MADATHINKAL HOUSE,
POST CHANDAKKUNNU, NILAMBUR,
MALAPPURAM DISTRICT.**
- 2. PANDIYAN, 844A, KUNNATHU HOUSE, 10,
VEETIKUTHU, NILAMBUR, MALAPPURAM-679 329**

BY ADV. SRI.R.K.MURALEEDHARAN

RESPONDENT(S):

- 1. THE TAHSILDAR,
TALUK OFFICE, NILAMBUR,
MALAPPURAM DISTRICT-679 329.**
- 2. THE DEPUTY TAHSILDAR,
TALUK OFFICE, NILAMBUR, MALAPPURAM DISTRICT-679 329**
- 3. THE VILLAGE OFFICER, AKAMPADAM, NILAMBUR,
MALAPPURAM DISTRICT-679 329**

BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).NO.12156/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE 1ST PAGE OF REGISTRATION CERTIFICATE OF KL-57-B- 8442.**
- P2 COPY OF THE AGREEMENT ENTERED INTO BY THE 1ST PETITIONER WITH REFEEKHALI DATED 14/03/2015.**
- P3 COPY OF THE 1ST PAGE OF REGISTRATION CERTIFICATE OF KL-10-H 4376.**
- P4 COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 2ND RESPONDENT.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 12156 of 2015

Dated this the 10th day of April, 2015

J U D G M E N T

Petitioners are the owners of the vehicles bearing Reg. Nos. **KL-57-B-8442 & KL-10-AH-4376**, which were seized by the respondents 2 & 3 alleging illegal transportation of 'Ordinary earth' in contravention of the relevant provisions of the 'MMDR Act, 1957'/'KMMC Rules. The learned counsel for the petitioners submits that the petitioners would like to have the offence compounded and that the above mentioned vehicles might be caused to be released after accepting the compounding fee.

2. The issue involved in this case is, whether the petitioners, who have been proceeded against in respect of the offences under the Mines and Mineral (Development and Regulation) Act, 1957 and the Kerala Minor Mineral Concession Rules, 2015 is entitled to have the offence compounded in view of the desire expressed from the part of the petitioners in this regard.

3. Heard the learned Government Pleader as well.

4. Section 23A of the 'Act' and the relevant Rules enable

the parties to have the offence compounded. The Rules specifically stipulate that any offence under the Rules can be compounded subject to the satisfaction of the maximum fine prescribed under the Rules, which is stated as Rs.5,000/-. But in respect of the transportation of sand/earth without any valid pass/sanction, it is stated as an offence under the 'Act' by virtue of the incorporation of Section 4(1A), for which separate penalty is provided under the 'Act' itself. It was in the said circumstance, that this Court has passed orders enabling the parties to have interim custody of the vehicle, on satisfaction of a sum of Rs.25,000/-, also directing the concerned respondent to consider the application for compounding, if any.

5. A question arose before this Court as to whether the prosecution proceedings could be pursued further, once the offence is compounded in accordance with the relevant provisions. This issue has already been considered and decided by this Court in **2013 (1) KLT 600 (Digil v. Sub Inspector of Police)**, holding that, once the offence is compounded, there cannot be any further prosecution proceedings.

6. In view of the willingness expressed from the part of

the petitioners to have the offence compounded, conceding the guilt, this Court finds it fit and proper to direct the respondents 2 & 3 to compound the offence, if the petitioners file applications and satisfy a sum of **Rs. 25,000/- each** towards compounding fee. It is ordered accordingly. On satisfaction of the compounding fee, the vehicles shall be released to the petitioners forthwith. It is made clear that once the offence alleged against the petitioners is compounded, no prosecution proceedings shall be pursued against them.

The writ petition is disposed of accordingly. The petitioners shall produce a copy of this judgment along with a copy of this writ petition before the respondents 2 & 3 for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.