

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. 12461 of 2015 (G)

PETITIONER(S):

- 1. ABDUL NASAR,S/O.SEETHI, AGED 30 YEARS,
PANIKKAMANNIL HOUSE, VALLAPUZHA VILLAGE,
VALLAPUZHA.P.O., PATTAMBI TALUK,
PALAKKAD DISTRICT-679 335 (OWNER OF LORRY
BEARING REGISTRATION NO.KL-52 F-5378 AND JCB BEARING
REGISTRATION NO.KL-52 B 5165)**
- 2. SAKEER HUSSAIN.M., S/O.UMMER, AGED 30 YEARS,
MANAMULLY HOUSE, NELLAYA VILLAGE, NELLAYA.P.O.,
OTTAPALAM TALUK, PALAKKAD DISTRICT-679 335
(OWNER OF LORRY BEARING REGISTRATION NO.KL-40-8865).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT :

**DEPUTY TAHASILDAR,
OTTAPALAM TALUK, PALAKKAD DISTRICT-679 335.**

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.12461/2015

APPENDIX

PETITIONER'S EXHIBITS:

**P1 COPY OF THE SEIZURE MAHASSAR DATED 7/4/2015 PREPARED BY THE
RESPONDENT.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.S.TO JUDGE

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P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 12461 OF 2015
.....

Dated this the 10th April, 2015

J U D G M E N T

The petitioners are owners of vehicles bearing Nos.**KL.52 F.5378, KL. 52 B. 5165 and KL. 40-8865** and they are aggrieved of the seizure of the vehicle by the respondent/Deputy Tahsildar on 07.04.2015, alleging that the above vehicle were being used for transportation of 'ordinary earth' without valid pass.

2. The learned Counsel for the petitioners submits that the petitioners are ready to compound the offence and that an opportunity might be given to get the vehicle released, after satisfying the compounding fee.

3. 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 are entitled to have the offence compounded in view of the desire expressed from the part of the petitioners in this regard.

4. Heard the learned Government Pleader as well.

5. 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 been passing various orders in similar matters enabling the concerned parties to have the interim custody of the vehicle on satisfaction of a sum of **Rs.25,000/-** and also by directing the concerned respondent to consider the application for compounding, if any.

6. 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.

7. In view of the law declared as mentioned herein before, there will be a direction to the respondent to consider the application filed by the petitioners to compound the offence; and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000/- for each vehicle** as the compounding fee. Once the offence is compounded, no prosecution proceedings shall lie against the petitioners.

8. The petitioners shall produce a copy of this judgment, along with a copy of this writ petition, before the respondent/Deputy Tahsildar, for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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