

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 16622 of 2008 (D)

PETITIONER(S):

**IBRAHIM, AGED 25 YEARS, S/O.MUHAMMED,
KANNAMPALLIYIL HOUSE, PATHAR P.O., CHUNGATHARA,
NILAMBUR TALUK, MALAPPURAM DISTRICT.**

**BYSRI.P.VIJAYA BHANU, SENIOR ADVOCATE
ADV. SRI.P.VENUGOPAL**

RESPONDENT(S):

- 1. THE TAHSILDAR, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**
- 2. THE DISTRICT COLLECTOR, MALAPPURAM.**

BY GOVERNMENT PLEADER SRI.ABHIJETT LESSLIE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16622 of 2008 (D)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE
1ST RESPONDENT.**

**EXT.P2: TRUE COPY OF THE ORDER P-4/2573/2008 DTD.16.5.2008 PASSED BY THE
2ND RESPONDENT.**

**EXT.P3: TRUE COPY OF THE PASS ISSUED IN FAVOUR OF THE VEHICLE BEARING
REG.NO.KL-11-A/6401.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. SURENDRA MOHAN,J.

W.P(C) NO. 16622 OF 2008

Dated this the 22nd January, 2015.

JUDGMENT

The petitioner is the owner of a truck bearing registration No: KL-11-A 6401. On 7.1.2008, the vehicle was seized by the first respondent on the allegation that it was found to be transporting river sand in violation of the provisions of the Kerala Protection of River Banks and Regulation of Removal of River Sand Act, 2001. Thereafter, as per Ext.P2 the second respondent has imposed a fine of Rs.25,000/- on the petitioner.

2. According to the counsel for the petitioner in view of the dictum of a Division Bench of this Court in Sanjayan v. Tahsildar [2007(4)KLT 597], the second respondent has no power or authority to levy a fine on the petitioner. It is pointed out that the said dictum has been followed by this

Court in an unreported judgment dated 15.2.2014 in WPC 9520/2008.

3. In view of the dictum of the Division Bench in Sanjayan v. Tahsildar (supra), Ext.P2 in so far as imposed a fine of Rs.25,000/- on the petitioner is liable to be set aside.

This writ petition is accordingly allowed to the extent of setting aside that part of Ext.P2 order by which, an amount of Rs.25,000/- (Rupees twenty five thousand only) has been imposed as fine on the petitioner. It is clarified that in all other respects Exts.P2 shall continue to be in force.

Sd/-
K. SURENDRA MOHAN
Judge

jj

/True copy/

