

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

W.P.(C).No.17345 of 2009 (K)

PETITIONER(S):-

UMMER.C.M, S/O. MUHAMMED.C.M, AGED 27 YEARS,
CHAMBALAKKATTIL HOUSE, PARAKULAM.P.O.,
PARAKULAM VILLAGE, THALAPPILLI TALUK,
MALAPPURAM DISTRICT (ONWER OF A MINI LORRY
BEARING REGISTRATION NO. KL-8-Z-3069)

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):-

1. THE DISTRICT COLLECTOR, MALAPPURAM.
2. THE TAHSILDAR, PONNANI TALUK.
3. THE SUB INSPECTOR OF POLICE,
KUTTIPURAM POLICE STATION.
4. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

R1 to R4 BY GOVERNMENT PLEADER SRI.MANOJ P.KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
25-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE PASS ISSUED BY THE SECRETARY,
 THAVANOOR GRAMA PANCHAYATH DATED 2.5.2009 TO THE
 PETITIONER AUTHORIZING TO LOAD SAND FROM KADAVU
 ON 4.5.2009.
- EXT.P2 TRUE COPY OF THE APPLICATION SUBMITTED BY THE
 PETITIONER BEFORE THE FIRST RESPONDENT
 DATED 5.5.2009.
- EXT.P3 TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
 DATED 22/05/2009 IN W.P.(C).NO.14031 OF 2009.
- EXT.P4 TRUE COPY OF THE ORDER DATED 4.6.2009 PASSED BY
 THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

Vku.

[true copy]

K. Vinod Chandran, J

W.P.(C).No.17345 of 2009-K

Dated this the 25th day of May, 2015

JUDGMENT

The petitioner challenges the procedure adopted by the District Collector in passing Exhibit P4, insofar as no report having been called for to assess the value of the vehicle.

2. The challenge against Exhibit P4 is only with respect to the procedure adopted in the valuation of the vehicle. Admittedly the petitioner is the owner of a vehicle bearing registration No.KL-0-Z-3069, which was seized by the Tahsildar, Ponnani under the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 [for short “the Act”], for alleged commission of offences under the Act. Rule 27 of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002 [for brevity “the Rules”] prescribes for an order of confiscation and also prescribes that the vehicle may be returned, if the owner or possessor remits an amount towards the River Management Fund equal to the price fixed by the District Collector, with fine within seven days of seizure.

3. The confiscation order passed at Exhibit P4 under Section 23 of the Act, as it existed in the Act of 2001, is challenged on the premise that there is no discernible procedure by which the District Collector arrived at the value of the vehicle. While the petitioner asserts that the District Collector has without any norms arrived at the value of the vehicle, there is no value asserted by the petitioner in the writ petition. The petitioner does not even make mention of the model of the vehicle and the nature of the vehicle or produce any valuation with respect to the vehicle to challenge the valuation as made by the District Collector.

4. The Act and the Rules confer the District Collector with the power to order confiscation of the vehicle as also release of the vehicle on payment of the value of the vehicle. The determination of value of the vehicle is an authority conferred on the District Collector, which the District Collector has exercised in Exhibit P4. There is no material produced to contest the valuation made by the District Collector, before this Court, so as to interfere with Exhibit P4.

5. It is also to be noticed that the petitioner was once before this Court earlier for a direction to the District Collector to

finalise the proceedings. The petitioner is not seen to have taken any contention in that writ petition with respect to the valuation being carried out by the District Collector by means of any particular procedure.

In the above circumstances, the writ petition would stand dismissed. The petitioner was directed to be granted release of the vehicle on condition of payment of Rs.75,000/- to the District Collector and on execution of a bond to pay the balance sum of Rs.1,00,000/-, by an interim order dated 20.11.2009. If the said condition has been complied with, the District Collector would be entitled to enforce the Bank Guarantee; otherwise, take recovery proceedings as provided in the Act and Rules. Parties are left to suffer their respective costs.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]