

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

W.P.(C).No.13571 of 2015 (V)

PETITIONER(S):-

RAVINDRAN, S/O.GOPALAN, AGED 51 YEARS,
VADAKKATHUVALAPPIL HOUSE, KALADY P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.S.SHAJAHAN (ADOOR).

RESPONDENT(S):-

1. STATION HOUSE OFFICER,
KUTTIPURAM POLICE STATION, MALAPPURAM DISTRICT- 679 571.
2. SUB DIVISIONAL MAGISTRATE, MALAPPURAM - 676 503.
3. DISTRICT COLLECTOR,
CIVIL STATION, MALAPPURAM - 676 503.

R1 to R3 BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.13571 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXT.P1 - A COPY OF THE SEIZURE MAHAZAR PREPARED BY THE
FIRST RESPONDENT DATED 27/2/2014.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.13571 of 2015-V

Dated this the 22nd day of May, 2015

JUDGMENT

The petitioner challenges the seizure of a vehicle effected as per Exhibit P1 for violation of the provisions of the Protection of River Banks and Regulation of Removal of Sand Act, 2001 [for brevity "Sand Act"].

2. Though the petitioner's contention is that the petitioner had a valid pass for transportation of sand, nothing is produced herein. However, going by the provisions of the Sand Act, on the seizure being effected, the officer seizing the vehicle has to produce it before the jurisdictional Judicial Magistrate as also, under Section 23A of the Act, forward the entire documents to the jurisdictional Sub Divisional Magistrate for initiating confiscation proceedings. The officer who has effected such seizure is impleaded as the 1st respondent and the 2nd respondent is the Sub Divisional Magistrate, who has to initiate proceedings under Section 23A of the Sand Act.

3. Going by the authoritative pronouncement of this Court in ***Faisal v. Assistant Sub Collector [2015 (1) KLT 949]***, the petitioner could seek for interim custody either before the jurisdictional Judicial Magistrate or before the Sub Divisional Magistrate having jurisdiction over the area. In such circumstance, there shall be a direction to the 1st respondent to produce the vehicle before the jurisdictional Judicial Magistrate and also forward the entire documents to the jurisdictional Sub Divisional Magistrate for initiating confiscation proceedings. The same shall be done expeditiously and the petitioner will be entitled to seek interim custody of the vehicle either from the jurisdictional Judicial Magistrate or the Sub Divisional Magistrate, as laid down in the afore-cited decision, in accordance with the guidelines issued by a Full Bench of this Court in ***Shan v. State of Kerala [2010(3) KLT 413]***.

The writ petition is disposed of as above.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]