

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 18636 of 2009 (Y)

PETITIONER(S):

**UMMER SHERIF, S/O.MUHAMMED, AGED 24 YRS,
ERINJIKKAL HOUSE, ESWARAMANGALAM.PO, EZHAVANTHURUTHY
VILLAGE, PONNANI TALUK, MALAPPURAM DISTRICT,
(OWNER OF MINI LORRY BEARING REGISTRATION NO.(KL-10-J-6697).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,MALAPPURAM.**
- 2. THE SUB INSPECTOR OF POLICE,
PONNANI POLICE STATION.**
- 3. THE STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.MUHAMMED SHAFI. M.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 18636 of 2009 (Y)

APPENDIX

PETITIONERS' EXHIBITS

**P1: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE
R1 DATED 30/4/09**

**P2: COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 12/5/09 IN
WPC.13573/09**

P3: COPY OF THE ORDER DATED 5/6/09 PASSED BY THE R1

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.18636 of 2009

Dated this the 5th day of January, 2015

JUDGMENT

The petitioner's vehicle bearing No.KL-10-J-6697, which is a Mini Lorry, was seized by the 2nd respondent on 29.04.2009, alleging unauthorised transportation of river sand. The petitioner submitted Ext.P1 application for releasing the vehicle. Since it was not acted upon, he approached this Court by filing WP(C) No.13573 of 2009. It was disposed of as per Ext.P2 judgment dated 12.05.2009, whereby the 1st respondent was directed to consider Ext.P1 and to pass appropriate orders within the time stipulated therein. Pursuant to the said direction, the matter was considered and Ext.P3 order came to be passed by the 1st respondent on 05.06.2009, to have the proceedings finalised after affording an opportunity of hearing to the petitioner, setting the petitioner at liberty to redeem the vehicle on satisfaction of a sum of Rupees One lakh to the River Management Fund in terms of the Kerala Protection of River Banks and Regulation of Sand Mining Act read with Section 27(3) of the Kerala Protection of

River Banks and Regulation of Sand Mining Rules. This made the petitioner to approach this Court challenging Ext.P3 order.

2. The learned counsel for the petitioner submits that, the value of the vehicle has been fixed by the District Collector absolutely without any rhyme or reason and hence the said order is liable to be intercepted by this Court. It is also stated that, the petitioner was transporting only ordinary sand and that the original of the sand pass was produced before the Sub Inspector of Police, Ponnani Police Station as referred to in Ext.P1 representation. But no copy of any such pass or bill, showing the purchase of the ordinary sand by the petitioner, has been produced in the writ petition.

3. When the matter came up for admission before this Court on 03.07.2009, the petitioner was directed to file an affidavit as to the factual particulars. The said order reads as follows:

"Petitioner shall file an affidavit affirming that the consignment of the sand which was transported in the petitioner's vehicle on 29.04.02009 was supported by any pass issued by the local authority. Though there is a reference to a pass in Ext.P1 representation the details of the same are not given either in Ext.P1 or in the writ petition. Post after such an affidavit is placed on record. Petitioner shall also take steps to implead the concerned local authority."

4. The learned Government Pleader points out that, no such affidavit has been filed by the petitioner and that the petitioner has not filed any petition for impleading the local authority in the party array, in spite of the special direction given by this Court as per the above interim order. The writ petition is still to be admitted, though it was filed more than five years ago in the year 2009. The direction issued by this Court as per the above order has not been complied with, as no affidavit has been filed and so also, no petition to implead the local authority in the party array has been preferred.

In the above circumstances, this Court finds that, this is not a fit case to call for interference. The writ petition is devoid of any merit and the same is dismissed accordingly.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp