

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 19003 of 2013 (A)

PETITIONER(S):

**RAHIM, AGED 34 YEARS,
S/O.MAKKAR ASSIS, KOPRAMBIL HOUSE
WEST CHELAKKULAM, VILANGU P.O., PATTIMATTOM VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM,
(OWNER OF LORRY BEARING REGISTRATIONNUMBER KL-40-H-9597).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE DISTRICT POLICE CHIEF
ERNAKULAM (RURAL), ALUVA, ERNAKULAM PIN - 683 101.**
- 2. THE SUB INSPECTOR OF POLICE,
KURUPPUMPADY POLICE STATION,
ERNAKULAM - 683542.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

WP(C).No. 19003 of 2013 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P-1: TRUE COPY OF THE SEIZURE MAHAZAR DATED 25.7.2013 PREPARED
 BY THE SECOND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 19003 of 2013

Dated this the 25th day of February, 2015

J U D G M E N T

The vehicle bearing No.KL-40-H-9597 was seized by the second respondent alleging offence under the Mines and Mineral (Development and Regulation) Act and the Kerala Minor Mineral Concession Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondent to effect seizure has already been considered by this Court and the power and competence has been upheld as per the decision reported in **Aloshias C. Antony Vs. Government of Kerala** [2014(1) KLT 536]. The said decision was rendered, also taking note of the nature of offence which is a 'cognizable' one (notwithstanding anything contained in the Cr.P.C) as stipulated in Section 21(6) of MMDR Act, 1957 and also placing reliance on the judgment rendered by a Division Bench of this Court in **Construction Materials Movers Association V. State of Kerala** [2008 (4)

KLT 909]. In the said circumstance, there is no tenable ground to call for interference.

4. When the matter came up for consideration on 31.07.2013, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/- with a simple bond.** In the said circumstance, the further course of action required is to surrender the vehicle before the concerned respondent, so as to enable the respondent to produce it before the concerned Magistrate having jurisdiction over the area and to proceed with steps for prosecution, unless the offence is sought to be compounded.

5. The petitioner expresses desire to compound the offence by virtue of the enabling provisions under the relevant provisions of law. This Court finds it fit and proper to permit the petitioner to have the offence compounded on satisfying the compounding fee of Rs.25,000/-. The amount ordered to be paid as per the interim order dated 31.07.2013 shall be treated as compounding fee and offence shall be treated as compounded. Once the offence is compounded, no prosecution proceedings will lie in view of the law declared by this Court in **Digil Vs. Sub Inspector of Police**

[2013(1) KLT 600]. It shall be reported to the concerned Magistrate, if the crime has already been reported. If there is any failure in satisfying the compounding fee, the concerned respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area.

The writ petition is disposed of.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

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