

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 18079 of 2015 (H)

PETITIONERS:

- 1. SAMMED P., AGED 38 YEARS,
S/O.ABUTTY, PULIKKALAKATH HOUSE,
PALAPPURAM POST, OTTAPALAM -679 103.**
- 2. SAIDALAVI T., AGED 47 YEARS,
S/O.ABOOBACKER, THOTTATHODI HOUSE,
CHUNANGAD POST, AMBALAPARA- 679 511.**

BY ADV. SRI.R.SREEHARI.

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR, PALAKKAD,
CIVIL STATION, PALAKKAD- 678 014.**
- 2. REVENUE DIVISIONAL OFFICER & SUB COLLECTOR,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
OTTAPALAM -679 101.**
- 3. TAHSILDAR, OTTAPALAM TALUK OFFICE,
OTTAPALAM -679 101.**
- 4. DEPUTY TAHSILDAR (INSPECTION),
TALUK OFFICE, OTTAPALAM- 679 101.**
- 5. GEOLOGIST,
MINING AND GEOLOGY DEPARTMENT,
DISTRICT OFFICE, CIVIL STATION, PALAKKAD- 678 014.**

BY GOVT. PLEADER SRI.MANOJ P.KUNJACHAN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 18079 of 2015 (H)

APPENDIX

PETITIONER'S EXHIBITS:-

**P1:- PHOTO COPY OF THE REGISTRATION CERTIFICATE OF THE
1ST PETITIONER'S TIPPER KL- 45B- 6016.**

**P2:- PHOTO COPY OF INVOICE OF THE 2ND PETITIONERS MINI HYDRAULIC
EXCAVATOR.**

P3:- PHOTO COPY OF THE SEIZURE MAHAZAR OF THE 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.(C) No. 18079 of 2015 (H)

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioners in the above writ petition are aggrieved with the seizure of their vehicles for alleged commission of offence under the Mines and Mineral (Development and Regulation) Act, 2015 and Kerala Minor Mineral Concession Rules 2015 (for short KMMC Rules). The petitioners had made applications for compounding the offence under the KMMC Rules, 2015. This Court had, by way of an interim order dated 24.06.2015, directed that the petitioners vehicles be released on payment of Rs.50,000/- each subject to further orders.

2. In a batch of writ petitions numbered as W.P.(C) No.14605 of 2015 and connected cases, this Court had considered the aforesaid issue and directed the Government to bring appropriate amendments to the Rules so as to avoid the arbitrary exercise of the discretionary power, conferred

on the authorities, under the compounding provision. However, for the pending cases, this Court had directed that compounding to be effected on payment of Rs.50,000/- (Rupees fifty thousand only) as also double the amount of royalty and the price of the mineral illegally transported as determined by the Geologist on an assessment of the maximum quantity that could be transported in the goods vehicle which had been seized. This shall apply to the 1st petitioner's tipper lorry. With respect to excavators this Court directed the compounding fee to be Rs.75,000/-. This shall apply to the 2nd petitioner's excavator.

3. The petitioners shall produce the registration certificates before the 5th respondent/Geologist within two weeks, and if not the vehicle shall be liable for seizure. The 5th respondent shall determine the said amount and deduct the amounts paid, by virtue of the interim order, on production of the receipt of such payment. On payment of the aforesaid sums offence shall be compounded. The

compounding made shall be marked in the registration certificate of the vehicle and communicated to the Motor Vehicle Department. If any of the petitioners do not produce the registration certificate of any of the vehicles released provisionally, as per the interim order, then they shall be liable for confiscation and penal proceedings also shall be continued.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE