

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 18541 of 2014 (P)

PETITIONER(S):

**P.J.JOSHY,
MANAGING PARTNER, PEEJAY GRANITES, CHITTADI P.O.,
PALAKKAD, RESIDING AT PUNNELIPARAMBIL HOUSE,
THAZHEKKAD P.O., THRISSUR DISTRICT.**

**BY SRI.P.K.SURESH KUMAR, SENIOR ADVOCATE
ADV. SRI.K.P.SUDHEER**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM-695 001.**
- 2. DISTRICT COLLECTOR,
PALAKKAD-678 001.**
- 3. VILLAGE OFFICE,
VANDAZHI-I VILLAGE, PALAKKAD DISTRICT, PIN-678 684.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 18541 of 2014 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- TRUE COPY OF SEIZURE MAHAZAR DATED 14-7-2014 ISSUED BY THE
THIRD RESPONDENT.**

**EXHIBIT P2- TRUE COPY OF CERTIFICATE OF REGISTRATION OF PETITIONER'S
VEHICLE NO. KL-45C-2132.**

**EXHIBIT P3- TRUE COPY OF CERTIFICATE OF REGISTRATION OF PETITIONER'S
VEHICLE NO. KL-49C-3472.**

**EXHIBIT P4- TRUE COPY OF INTERIM ORDER PASSED BY THIS HON'BLE COURT IN
WPC NO. 17279/2014.**

**EXHIBIT P5- TRUE COPY OF DECISION NO. 11 DATED 27-06-2014 OF VANDAZHI
GRAMA PANCHAYAT WHICH HAS BEEN STAYED BY THIS HON'BLE
COURT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON J.

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Dated, this the 11th day of March, 2015

JUDGMENT

The vehicles bearing No. **KL 45 C 2132** and **KL 49 C 3472** were seized by the **3rd respondent/Village Officer** 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 3rd respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 3rd 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 22.07.2014, the vehicles were caused to be released, on satisfaction of a sum Rs.25,000/- and on execution of a simple bond before the 2nd respondent. In the said circumstance, the further course of action required is to surrender the vehicles before the 2nd respondent, so as to enable the 2nd 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 22.07.2014 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

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the crime has already been reported. If there is any failure in satisfying the compounding fee, the 2nd respondent shall pursue further steps in connection with the prosecution before the concerned Magistrate having jurisdiction over the area. It is also open for the petitioner to face prosecution proceedings, if the petitioner wants to establish the facts and figures before the concerned Judicial First Class Magistrate's Court.

The writ petition is disposed of.

Sd/-

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

kmd