

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. 18568 of 2014 (U)

PETITIONER:

**GEETHA KALADHARAN,
W/O.KALADHARAN, KALALAYAM,
SOORANADU, KUNNATHOOR,
KARUNAGAPPALLY, KOLLAM.**

**BY ADVS.SRI.R.SUNIL KUMAR
SMT.A.SALINI LAL**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA, PIN - 688 001.**
- 2. SUB INSPECTOR OF POLICE,
NOORANADU POLICE STATION,
NOORANADU, PIN-690501.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 18568 of 2014 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

EXT.P1: COPY OF THE R.C.BOOK.

EXT.P2: COPY OF THE SEIZURE MAHAZAR DATED 17-7-2014.

EXT.P3: COPY OF THE PHOTOGRAPH.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 18568 of 2014

~~~~~

Dated, this the 11th day of March, 2015

JUDGMENT

The vehicle bearing No. **KL 23 D 7509** was seized by the 2nd respondent/S.I. Of Police 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 2nd respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 2nd 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 18.07.2014, 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 18.07.2014 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 the crime has already been reported. If there is any failure in satisfying the compounding fee, the 2nd respondent shall pursue

W.P.(C) No. 18568 of 2014

: 3 :

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