

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 25572 of 2012 (V)

PETITIONER(S):

- 1. MOHANDAS, AGED 48 YEARS,
S/O KUTTAYI, THAYYIL HOUSE, PULIKKAL,
MALAPPURAM DISTRICT.**
- 2. RANJITH,
S/O CHERUNNI, THAYYIL HOUSE, PULIKKAL,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENT(S):

- 1. THE SUB COLLECTOR,
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN:679 322.**
- 2. THE SUB INSPECTOR OF POLICE,
KONDOTTY POLICE STATION, MALAPPURAM DISTRICT,
PIN:673 638.**

BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 25572 of 2012 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE VILLAGE
OFFICER, CHERUKAVU VILLAGE DATED, 15.10.2012 REGARDING THE
SEIZURE OF MINI LORRIES.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.25572 of 2012

Dated this the 27th day of February, 2015

JUDGMENT

The vehicles bearing Nos.KL-10AL/8523 and KL-10-AF/6613 belonging to the petitioners were seized by the Village Officer as per the direction of 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 respondents are not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the respondents 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 **06.11.2012**, the vehicles were caused to be released, **on execution of simple bonds**. In the said circumstance, the further course of action required is to surrender the vehicles 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/- for each vehicle. The amount ordered to be paid as per the interim order dated **06.11.2012** 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**

sp