IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No.25062 of 2013 (G)

PETITIONER:

V.T SASI,S/O.RAMAN NAIR,VALLANATH HOUSE,
MURIAMANGALAM,MAMALA P.O
ERNAKULAM DISTRICT,PIN-682 305.
(OWNER OF TIPPER LORRY BEARING REG.NO KL-40 9156)

BY ADVS.SRI.A.V THOMAS
SMT.M.M.JASMIN
SRI.NIDHI SAM JOHNS

RESPONDENTS:

1. **SUB INSPECTOR OF POLICE,**
PANANGAD POLICE STATION,
PANANGAD,PIN-682 506,
ERNAKULAM DISTRICT.

2. **THE DISTRICT COLLECTOR,**
ERNAKULAM,CIVIL STATION,
KAKKANAD,KOCHI-682 030.

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No.25062 of 2013 (G)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF THE CERTIFICATE OF REGISTRATION OF THE TIPPER LORRY BEARING REGISTRATION KL-40-9156.

EXHIBIT P2:TRUE COPY OF THE CERTIFICATE OF INSURANCE.

EXHIBIT P3:TRUE COPY OF THE POLLUTION UNDER CONTROL CERTIFICATE DATED 30-04-2013 IN RESPECT OF THE LORRY.

EXHIBIT P4:TRUE COPY OF THE GOODS CARRIAGE PERMIT DATED 07-05-2012 OF THE LORRY.

EXHIBIT P5:TRUE COPY OF THE CERTIFICATE OF FITNESS.

EXHIBIT P6:TRUE COPY OF THE DRIVING LICENSE NO 40/5800/2001 DATED 04-04-2011 ISSUED BY THE ASSISTANT LICENSING AUTHORITY,PERUMBAVOOR TO THE DRIVER SUNIL C.K.

EXHIBIT P7:TRUE COPY OF THE SEIZURE MAHAZAR DATED 05-10-2013 PREPARED BY THE FIRST RESPONDENT.

EXHIBIT P8:TRUE COPY OF QUARRYYING/MOVEMENT PERMIT DEALER'S LICESE PASS DATED 05-10-2013 ISSUED BY DEPARTMENT OF MINING & GEOLOGY7,ERNAKULAM.

EXHIBIT P9:TRUE COPY OF THE LETTER DAT5ED 05-10-2013 ISSUED BY THE VICAR,IMMACULATE HEART OF MARY CHURCH,NETTOOR.

EXHIBIT P10:TRUE COPY OF THE REPRESENTATION DATED 07-10-2013 SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT

RESPONDENT'S EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.25062 of 2013

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Dated this the 2nd day of March, 2015

JUDGMENT

The vehicle bearing Registration No.KL-40/9156 was seized by the 1st 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 1st respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 1st 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 11.10.2013, the vehicle caused to be released, on satisfaction of a sum Rs.25,000/- and on execution of a simple bond. In the said circumstance, the further course of action required is to surrender the vehicle before the 1st respondent, so as to enable the 1st 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 **11.10.2013** 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

1st 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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