

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 22651 of 2015 (F)

PETITIONER(S):

**RAJU K.M., S/O. MANI, AGED 35 YEARS,
HOUSE NO. 9/52, KUTHANAPALLIL HOUSE,
MULAVUVALLY P.O., VAZHATHOPE, IDUKKI DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN.

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, PAINAVU, IDUKKI-685 585.**
- 2. REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, IDUKKI-685 586.**
- 3. THE TAHSILDAR,
IDUKKI TALUK, IDUKKI-685 586.**
- 4. THE VILLAGE OFFICER,
KANJIKKUZHY, IDUKKI DISTRICT-685 586.**

BY GOVT. PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-08-2015, ALONG WITH WP(C).NO.22728 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

WP(C).No. 22651 of 2015 (F)

APPENDIX

PETITIONER'S EXHIBITS:-

EXHIBIT-P1- TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE.

**EXHIBIT-P2- TRUE COPY OF THE SEIZURE MAHAZAR OF THE 4TH RESPONDENT
DATED 15/07/2015.**

**EXHIBIT-P3- TRUE COPY OF THE REPRESENTATION OF THE PETITIONER
DATED 20/07/2015.**

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.(C) Nos. 22651 & 22728 of 2015

Dated this the 4th day of August, 2015

J U D G M E N T

The registered owner of a tipper lorry bearing Registration No. KL-06 E-5200 and a JCB bearing Chassis No.HAR3DXSUV01492367 (temporarily registered) is before this Court challenging the seizure of the vehicles for alleged commission of offence under the Kerala Minor Mineral Concession Rules 2015 (for short KMMC Rules) and Mines and Mineral (Development and Regulation) Act, 2015 (for brevity 'MMDR Act') as also the Kerala Land Conservancy Act, 1957 (for brevity 'KLC Act').

2. The learned Government Pleader, on instructions, would submit that the petitioner's vehicles were found quarrying from a Government Puramboke and transporting building stones, quarried therefrom. It is submitted by the learned counsel that the property was not a puramboke and it is a temple property from which quarrying was undertaken.

3. The learned Government Pleader submits that proceedings have been taken under the KMMC Rules and MMDR Act as also the KLC Act and proceedings have now been transmitted to the R.D.O. The learned Government Pleader also submits that as per the KLC Act, fine as well as compensation could be recovered from the petitioner. Definitely, the proceedings under the KLC Act will have to be proceeded with by the R.D.O. However, with respect to the offences under the MMDR Act, the petitioner submits that he is ready to compound the offence.

4. 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 is 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 tipper lorry in W.P.(C) No.22651/2015. With respect to excavators this Court directed the compounding fee to be Rs.75,000/-. This shall apply to the JCB in W.P.(C) No.22728/2015.

5. The petitioner shall produce the registration certificates before the 2nd respondent (R.D.O.). On the compounding fee being paid the vehicles and the goods shall be returned. However, the value of the goods so realised shall be only with respect to the compounding done under the MMDR Act and that need not detain the Government from imposing any compensation or fine under the KLC Act. It is made clear that this Court has merely directed compounding of the offence under the MMDR Act

and Rules. The compounding made shall be marked in the registration certificate of the vehicle and communicated to the Motor Vehicles Department.

Writ Petitions are disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE