

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 27059 of 2012 (F)

PETITIONER(S):

**SHOBY PINAKKIL,
S/O GOPALAN, PINAKKIL HOUSE, ANNASSERY P.O.
THALAKALATHOOR
KOZHIKODE DISTRICT. (REGISTERED OWNER OF AN
EXCAVATOR/JCB BEARING REGISTRATION NO.KL-AJ/3978).**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR
KOCHIKODE, PIN:673 001.**
- 2. THE TAHSILDAR,
KOZHIKODE TALUK, KOZHIKODE DISTRICT, PIN:673 001.**
- 3. THE ADDITIONAL TAHSILDAR,
KOZHIKODE TALUK, KOZHIKODE DISTRICT, PIN:673 001.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S) EXHIBITS

EXHIBIT P1: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE THIRD RESPONDENT DATED 14.11.2012.

EXHIBIT P2: TRUE COPY OF THE INTERIM ORDER DATED 3.4.2009 IN WP(C) NO.11206/2009 OF THIS HON'BLE COURT.

EXHIBIT P3: TRUE COPY OF THE INTERIM ORDER DATED 7.12.2011 IN WP(C) NO.31828/2011 OF THIS HON'BLE COURT.

EXHIBIT P4: TRUE COPY OF THE INTERIM ORDER DATED, 3.6.2011 IN WP(C) NO.15058/2011 OF THIS HON'BLE COURT.

EXHIBIT P5: TRUE COPY OF THE INTERIM ORDER DATED, 11.3.2011 IN WP(C) NO.7689/201 OF THIS HON'BLE COURT.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R. RAMACHANDRA MENON, J.

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Dated this the 9th day of March, 2015

JUDGMENT

The vehicle bearing No.KL-11AJ/3978 was seized by the third respondent alleging offence under the MMDR Act/KMMC Rules. The main ground of challenge is that, the respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 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 **16.11.2012**, the vehicle was caused to be released, **on execution**

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of a simple bond. In the said circumstance, the further course of action required is to surrender the vehicle before the 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 it compounded on satisfying the compounding fee of ₹25,000/- within **two weeks** from the date of receipt of a copy of this judgment. 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 compounding the offence, the respondent shall pursue further steps to **seize the vehicle** and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE.

rkc