

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. 26125 of 2013 (M)

PETITIONER(S):

1. REJIMON
PERUMBRAYIL HOUSE, RAMANKARY.P.O
MAMBUHAKARY
ALAPPUZHA.
2. MATHEW
KAPPIL KOIPALLY HOUSE PUNNAKUNNATHUSSERY
PUNNAKUNNAM.P.O ALAPPUZHA.
3. SHAJAHAN
THOPPIL HOUSE CHANGANASSERY.P.O KOTTAYAM.
4. VINOD.S
BINU BHAVANAM, PANACHIKAVU.P.O CHANGANASSERY
KOTTAYAM.
5. TONY THOMAS
PARATHODU HOUSE ERAVUCHIRA.P.O THOTTAKADU
CHANGANASSERY, KOTTAYAM.

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

1. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. DISTRICT COLLECTOR
KOTTAYAM-686 001.
3. SUB INSPECTOR OF POLICE
VAKATHANAM KOTTAYAM DISTRICT.
4. THE VILLAGE OFFICER,
VAKATHANAM.

5. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY
THIRUVANANTHAPURAM-695 001.

6. GEOLOGIST
DEPARTMENT OF MINING AND GEOLOGY, DISTRICT OFFICE,
CIVIL STATION, KOTTAYAM 686 001.

R BY GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

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

AD/

WP(C).No. 26125 of 2013 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE
BEARING REG. NOS.KL-4 AB-972 OF THE 1ST PETITIONER.**

EXHIBIT P2: TRUE COPY OF THE PERMIT ISSUED BY THE GEOLOGIST KOTTAYAM.

**EXHIBIT P3: TRUE COPY OF THE MAHAZAR PREPARED BY THE VILLAGE OFFICER,
VAKATHANAM.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R.RAMACHANDRA MENON, J.
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W.P.(C) No.26125 of 2013
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Dated this the 2nd day of March, 2015

JUDGMENT

The vehicles bearing Registration Nos.KL-4-AB-972, KL-4-AB-6326, KL-4-N-4997, KL-5-R-1718, KL-37-7086, KL-33-B-9181(JCB) and KL-33D-6984 (JCB) were seized by the 4th 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 4th respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 4th 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 25.10.2013, the vehicles caused to be released, on satisfaction of a sum Rs.25,000/- for each vehicle and on execution of a simple bond. In the said circumstance, the further course of action required is to surrender the vehicles before the 4th respondent, so as to enable the 4th respondent to produce them 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 petitioners express 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 petitioners 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 **25.10.2013** 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 4th 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

vdv