

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. 26880 of 2013 (H)

PETITIONER(S):

1. SARANGADHARAN PILLAI,
SARADA MANDIRAM, ERAVANKARA P.O.,
MAVELIKAKRA, ALAPUZHA.
2. VISHNU PRASAD, BHUVANENDRA BHAVAN,
THAZHAKKARA, MAVELIKKARA, ALAPUZHA.
3. RAJU, S/O. JOY,
ANCHAKKARAN PARAMBIL HOUSE,
ERUVA EAST, ERUVA P.O., KAYAMKULAM.
4. PRASANTH S., S/O.SASI, CHULLIKKATTIL HOUSE,
THONNAKKADU P.O., CHENGANNOOR.

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

RESPONDENT(S):

1. THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. DISTRICT COLLECTOR, ALAPUZHA - 690 101.
3. DISTRICT POLICE CHIEF, ALAPUZHA - 690 101.
4. THE CIRCLE INSPECTOR OF POLICE,
MAVELIKKARA - 690 103.
5. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM - 695 001.

BY SENIOR GOVT. PLEADER SRI.MUHAMMED SHAFI.M

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

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE NO.KL-31 A-974(JCB).
- EXHIBIT P2. TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE NO.KL-5 S-9997.
- EXHIBIT P3. TRUE COPY OF THE MAHAZAR PREPARED BY THE CIRCLE INSPECTOR OF POLICE, MAVELIKKARA.
- EXHIBIT P4. TRUE COPY OF THE NOTIFICATION NO.20553/K2/88/ID DATED 22.12.1988(SRO 139/89 DATED 24.01.1989).
- EXHIBIT P5. TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91 PUBLISHED ON 26.06.1991.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.26880 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

The vehicles bearing Nos.KL-31-A-974 (JCB) and KL-5-S-9997 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 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 **01.11.2013**, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/- for each vehicle** and **on executing a simple bond**. 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 01.11.2013 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 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**

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