

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 25706 of 2014 (K)

PETITIONER(S):

1. **GOPALAKRISHNAN, AGED 34 YEARS,
SON OF KALYANI, RESIDING AT VARIKKOTTIL HOUSE,
MANAMAKKAVU, ANAKKARA DESOM, PATTAMBI TALUK,
PALAKKAD DISTRICT.
(OWNER OF A LORRY BEARING REGISTRATION NO.KL-31-B-1941).**
2. **SUBASH, AGED 28 YEARS,
SON OF NARAYANAN, RESIDING AT KEEZHEPADATH HOUSE
ANAKKARA DESOM, ANAKKARA VILLAGE, PATTAMBI TALUK,
PALAKKAD DISTRICT.
(OWNER OF A LORRY BEARING REGISTRATION NO.KL-52-E-2310).**
3. **VIJITHA, AGED 22 YEARS,
DAUGHTER OF VIJAYAN, RESIDING AT CHATHAYIL HOUSE,
SUKHAPURAM, VATTAMKULAM VILLAGE, PONNANI TALUK,
MALAPPURAM DISTRICT.
(OWNER OF AN EXCAVATOR JCB BEARING
REGISTRATION NO.KL-54-E-7690).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

**THE DEPUTY TAHSILDAR (INSPECTION),
TALUK OFFICE, PATTAMBI,
PALAKKAD DISTRICT, PIN - 679 303.**

BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 25706 of 2014 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P-1: TRUE COPY OF THE SEIZURE MAHAZAR DATED 29.9.2014 PREPARED BY
THE RESPONDENT**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.25706 OF 2014
.....

Dated this the 4th March, 2015

J U D G M E N T

The vehicles bearing No. **KL.31/B-1941, KL.52E-2310 and KL.54E/7690** were seized by the **respondent/Deputy Tahsildar** on 29.09.2014 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 01.10..**2014**, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/- and on execution of a simple bond for each vehicle.** In the said circumstance, the further course of action required is to surrender the vehicles 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 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 **01.10..2014** 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 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.

P.R.RAMACHANDRA MENON
JUDGE

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