

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C) .No. 29742 of 2009 (K)

PETITIONER(S) :

RADHAMONY,
W/O. C.G.PRASANAN,
AGED 57 YEARS, PRASANTHI, VETTACKAL.P.O.,
CHERTHALA.

BY ADVS.SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFAEEK
SRI.K.S.SALEESH.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR,
ERNAKULAM.
3. THE TAHSILDAR,
KANAYANNUR TALUK,
TALUK OFFICE, ERNAKULAM.
4. THE VILLAGE OFFICER,
VILLAGE OFFICE,
KANAYANNUR.

BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 : TRUE COPY OF THE REPRESENTATION DATED 04/06/2009 MADE
TO THE 2ND RESPONDENT.

EXT. P2 : TRUE COPY OF THE REPORT DATED 04/06/2009 OF 3RD
RESPONDENT.

EXT. P3 : TRUE COPY OF THE RECEIPT DATED 15/06/2009 ISSUED FROM
DISTRICT TREASURY, ERNAKULAM.

EXT. P4 : TRUE COPY OF THE PROCEEDINGS DATED 15/06/2009 OF THE
2ND RESPONDENT.

EXT. P5 : TRUE COPY OF THE REPRESENTATION DATED 30/06/2009 MADE
BEFORE THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

EXT. R4 (A) : TRUE COPY OF MEMO DATED 07/05/2009.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P(C). No.29742 of 2009

Dated this the 26th day of May, 2015.

JUDGMENT

The petitioner is aggrieved with an order issued, imposing penalty for an alleged offence, committed by a vehicle having Registration No.KL-17B-781. The records in the case would indicate that the offence alleged was one of illegal transportation of sand from a property comprised in Block No.12 of Kanayannur Village, Desom, Resurvey No.165/9 without any permission for the same obtained under the Kerala Land Utilisation Order, 1967 or any other statutory enactments.

2. The vehicle was seized and the petitioner had also remitted the penalty of Rs.25,000/- (Rupees Twenty five thousand only) on 15.05.2009. It is on remittance of such penalty, that the vehicle was released as per Ext.P4. The vehicle itself was taken into custody of on 15.05.2009. The petitioner then filed a representation indicated at Ext.P5 on 30.06.2009 and

took no further steps. Later on, after more than an year, the present writ petition was filed challenging the imposition of penalty as illegal.

3. Considering the fact that the petitioner had willingly paid penalty and also the fact that no order imposing such penalty has been produced hereunder, this Court would decline discretionary exercise of power under Article 226 of the Constitution of India to direct refund of the amounts paid, without demur, by the petitioner.

The writ petition hence would stand dismissed.

Sd/-
K. VINOD CHANDRAN,
JUDGE

sp