

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. 28718 of 2013 (L)

PETITIONER :

BASHEER,
S/O.MOIDEEN HAJI, AGED 44 YEARS,
KULAMULLIL, VARODU P.O.,
OTTAPPALAM VILLAGE, OTTAPPALAM TALUK
PALAKKAD
(OWNER OF JCB BEARING REGISTRATION NO.KL-10-T-1475).

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT :

THE DEPUTY THAHASILDAR (INSPECTION)
OTTAPALAM TALUK, PALAKKAD DISTRICT, PIN-679 101.

BY GOVT. PLEADER SRI. M. MUHAMMED SHAFI

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

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...2/-

WP(C).No. 28718 of 2013 (L)

APPENDIX

PETITIONERS' EXHIBITS :

**EXHIBIT P1. THE COPY OF THE SEIZURE MAHAZAR DATED 15/11/2013 PREPARED
BY THE RESPONDENT.**

**EXHIBIT P2. THE COPY OF THE INTERIM ORDER OF THIS HONOURABLE COURT
DATED 23/7/2013 IN WPC NO.18247/2013.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P.(C) No.28718 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

The vehicle bearing No. KL-10-T-1475 was seized by the 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 **22.11.2013**, the vehicle was caused to be released, **on satisfaction of a sum Rs.25,000/-** and **on execution 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 the offence compounded on satisfying the compounding fee of Rs.25,000/-. The amount ordered to be paid as per the interim order dated **22.11.2013** 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 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

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