

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 26924 of 2014 (M)

PETITIONER :

**PRADEEP K.D, S/O.DIVAKARAN, AGED 38 YEARS,
KAPPIL HOUSE, VELLIKKAD, MUNDUR P.O.,
PALAKKAD DISTRICT -678 592
(REGISTERED OWNER OF VEHICLE KL-09/V- 2829).**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY TO THE GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM -695 001**
- 2. THE SUB INSPETOR OF POLICE,
MALAMPUZHA POLICE STATION, MALAMPUZHA P.O.,
PALAKKAD DISTRICT -678 651**
- 3. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST, KUPPANDA KOUNDANUR,
OZHALAPPATHY P.O, PALAKKAD DISTRICT.**
- 4. DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD -678 001**

R1 TO R4 BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, ALONG WITH WPC.NO. 26925/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

sts

APPENDIX

**EXHIBIT P1 TRUE COPY OF THE REGISTRATION CERTIFICATE DATED 21-06-2007
OF THE VEHICLE KL-09/V -2829.**

**EXHIBIT P2 TRUE COPY OF THE PERMIT ISSUED BY THE GEOLOGIST UNDER
TAMILNADU MISCELLANEOUS MINERAL CONCESSION RULES 1959
DATED 20-09-2014 OF THE VEHICLE KL-09/V-2829.**

EXHIBIT P2A. A TRUE COPY OF THE ENGLISH TRANSLATION OF THE EXHIBIT P2

**EXHIBIT P3 TRUE COPY OF THE TAX RECEIPT ISSUED BY THE 3RD RESPONDNT
TO THE PETITIONER DATED 20-09-2014**

**EXHIBIT P4 TRUE COPY OF THE ACKNOWLEDGEMENT FORM ISSUED BY THE
PWD ASSISTANT ENGINEER TO THE CONTRACTOR DATED 30-07-2014**

**EXHIBIT P5 TRUE COPY OF THE SEIZURE MAHAZAR DATED 20-09-2014 ISSUED BY
THE 2ND RESPONDENT**

**EXHIBIT P6 TRUE COPY OF THE INTERIM ORDER IN WPC NO.22084/2014 DATED
03-09-2014**

NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 26924 & 26925 OF 2014
.....

Dated this the 18th March, 2015

J U D G M E N T

Petitioner (same in both the cases) is the owner of the vehicles bearing Nos. **KL.09/W-9491 and KL.09/V-2829**, which were seized by the second respondent/Sub Inspector of Police on 20.09.2014 alleging violation of the provisions of Mines and Mineral (Development and Regulation) Act, 1957 and Kerala Minor Mineral Concession Rules. The learned Counsel for the petitioner submits that no offence has been committed by the petitioner under any circumstance and that the proceedings pursued by the respondents are per se wrong and illegal in all respects. Hence the challenge.

2. When the matter came up for consideration before this Court on 16.10.2014, the custody of the aforesaid vehicles was ordered to be released on execution of simple bonds and the vehicles were released accordingly.

3. After hearing both the sides, this Court finds that in view of the disputed questions of fact , the matters require to be proceeded with further . Accordingly, the second respondent/Sub Inspector of Police is set at liberty to file necessary complaint before the concerned Magistrate's Court having jurisdiction over

the area, within two weeks from the date of receipt of a copy of this judgment, if at all any offence is involved and to proceed with further steps. The vehicles concerned shall not be alienated by the petitioner nor any activity shall be pursued so as to diminish the value of the vehicle till the proceedings are finalised.

4. It is made clear that this will not stand in the way of the petitioner, if so advised, to have the offence compounded. If the petitioner is ready to have the offence compounded, the second respondent/Sub Inspector shall consider the application to be filed by the petitioner to compound the offence and pass appropriate orders forthwith, subject to satisfaction of a sum of **Rs.25000/-** as the compounding fee, **for each vehicle.** Once the offence is compounded, no prosecution proceedings shall lie against the petitioner. The petitioner shall produce a copy of this judgment, along with a copy of this writ petition, before the second respondent/Sub Inspector, for further steps.

The writ petitions are disposed of.

P.R.RAMACHANDRA MENON
JUDGE