

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936**

**WP(C).No. 31203 of 2012 (A)**  
-----

**PETITIONER(S) :**  
-----

- 1. ASOORA BEEVI, AGED 46 YEARS,  
W/O.BASHEER KUTTY, RIYAS MANZIL, NEDUVANNURMURI,  
THALAVOOR, PATHANAPURAM, KOLLAM DISTRICT,  
(REGISTERED OWNER OF JCB  
BEARING REGISTRATION NO. KL25-8377).**
- 2. RIYAD, AGED 25 YEARS,  
S/O.BASHEER KUTTY, RIYAS MANZIL, NEDUVANNURMURI,  
THALAVOOR, PATHANAPURAM, KOLLAM DISTRICT,  
(REGISTERED OWNER OF TIPPER LORRY BEARING REGISTRATION  
NO.KL 25 B-7939).**

**BY ADVS.SRI.S.U.NAZAR  
SRI.MANSOOR.B.H.**

**RESPONDENT(S) :**  
-----

- 1. STATION HOUSE OFFICER,  
KUNNIKODE POLICE STATION, KOLLAM DISTRICT- 690 001.**
- 2. ASSISTANT SUB INSPECTOR OF POLICE,  
KUNNIKODE POLICE STATION, KOLLAM DISTRICT- 690 001.**

**BY SR.GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**WP(C).No. 31203 of 2012 (A)**  
-----

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

**EXHIBIT P1: TRUE COPIES OF THE REGISTRATION CERTIFICATES OF  
THE VEHICLES.**

**EXHIBIT P2: A TRUE COPY OF THE FIR IN CRIME NO.1274/2012 OF KUNNIKODE  
POLICE STATION.**

**RESPONDENT(S)' EXHIBITS**  
-----

**NIL**

**//TRUE COPY//**

**P.A.TO JUDGE.**

Msd.

**P.R. RAMACHANDRA MENON, J.**

=====

W.P.(C). No. 31203 of 2012

-----

Dated this the 24<sup>th</sup> day of February, 2015

**JUDGMENT**

The petitioners are owners of the vehicles bearing Nos. **KL 25-8377 & KL 25 B-7939**, which were seized by the **2<sup>nd</sup> respondent** on 5.12.2012 alleging violation of the provisions of MMDR Act/KMMC Rules. This made the petitioners to approach this Court challenging the proceedings, mainly contending that the **2<sup>nd</sup>** respondent does not have any power jurisdiction or competence to have seized the vehicles in any manner.

2. Heard the learned Government Pleader as well.

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 **10.1.2013**, the vehicles were caused to be released, **on satisfaction of a sum of Rs.25,000/-** for each vehicle and **on execution of 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 said 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 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 petitioners to have it compounded on satisfying the compounding fee of ₹25,000/- for each vehicle. The amount ordered to be paid as per the interim order dated 10.1.2013 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 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.**

kp/-