

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

**PRESENT:**

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

**MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936**

**WP(C).No. 30662 of 2013 (G)**  
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**PETITIONER(S):**  
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1. VENU, S/O.BALAKRISHNAN,  
MELOOTIL HOUSE, PONAKAM.P.O.,  
MAVELIKKARA, ALAPPUZHA  
(OWNER OF LORRY KL-35 C-185).
2. MANOJ, S/O.DIVAKARAN, MANOJ BHAVANAM,  
MUDIYOORKONAM, PANDALAM.  
(OWNER OF LORRY KL-26 D 4383).
3. SREEJITH, S/O.SIVARAMAN NAIR,  
VATHALLOOR HOUSE, PILAPUZHA,  
HARIPPADU, ALAPPUZHA.  
(DRIVER OF LORRY KL-35 C-185).
4. GOPAKUMAR, S/O.GOPALAPILLAI,  
CHUDALAYIL PADINJARE VETTEL HOUSE,  
MUDIYOORKONAM, PANDALAM.

**BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)**

**RESPONDENT(S):**  
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1. THE CHIEF SECRETARY,  
GOVERNMENT OF KERALA, GOVT.SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
2. DISTRICT COLLECTOR, ALAPPUZHA-690101.
3. DISTRICT POLICE CHIEF, ALAPPUZHA - 690101.
4. THE SUB INSPECTOR OF POLICE,  
MAVELIKKARA - 690103.
5. DIRECTOR OF MINING AND GEOLOGY,  
DEPARTMENT OF MINING AND GEOLOGY,  
THIRUVANANTHAPURAM-695001.

**BY GOVERNMENT PLEADER SRI.MUHAMMED SHAFI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**mbr/**

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE NO.KL-35 C-185.
- EXHIBIT-P2: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE NO.KL-26 D 4383.
- EXHIBIT-P3: TRUE COPY OF THE MAHAZAR PREPARED BY THE SUB-INSPECTOR OF POLICE, MAVELIKKARA FOR VEHICLE NO.KL-35 C-185.
- EXHIBIT-P4: TRUE COPY OF THE MAHAZAR PREPARED BY THE SUB INSPECTOR OF POLICE, MAVELIKKARA FOR VEHICLE NO.KL-26 D 4383.
- EXHIBIT-P5: TRUE COPY OF THE NOTIFICATION NO.20553/KS/88/ID DATED 22.12.1988(SRO 139/89 DATED 24.1.1989).
- EXHIBIT-P6: TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91 PUBLISHED ON 26.06.1991.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

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

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**W.P.(C) No.30662 of 2013**

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**Dated this the 2<sup>nd</sup> day of March, 2015**

**JUDGMENT**

The vehicles bearing Registration Nos.KL-35-C-185 and KL-26-D-4383 were seized by the 4<sup>th</sup> respondent 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 4<sup>th</sup> respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the 4<sup>th</sup> 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 12.12.2013, the vehicles caused to be released, on satisfaction of a sum 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 4<sup>th</sup> respondent, so as to enable the 4<sup>th</sup> respondent to produce them 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 **12.12.2013** 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 satisfying the compounding fee, the 4<sup>th</sup> 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**

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