

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C).No. 32359 of 2009 (L)

PETITIONER:

SATHYAVAN.K.M. ,S/O. MADHAVAN, AGED 70 YEARS,
KALAPPURACKAL HOUSE, EDAVOOR P.O., KOOVAPPADY VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT,
(OWNER OF A MINI LORRY BEARING REGISTRATION
NO.KL-7-X-5524).

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENTS:

1. THE SUB INSPECTOR OF POLICE,
KORATTY POLICE STATION.
2. THE DISTRICT COLLECTOR,
THRISSUR.
3. THE THAHASILDAR,
KUNNATHUNADU TALUK.
4. THE SECRETARY,
OKKAL GRAMA PANACHAYATH,
ERNAKULAM DISTRICT.

R1 TO R3 BY GOVERNMENT PLEADER SRI. MANOJ P.KUNJACHAN,
R4 BY ADV. SRI.NIREESH MATHEW.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 29-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

Prv/2.

W.P.(C).NO. 32359 OF 2009 (L)

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: TRUE COPY OF THE PASS DATED 06-06-2009 ISSUED BY THE SECRETARY, OKKAL PANCHAYATH TO TRANSPORT SAND.
- EXT.P2: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 15.6.09 IN W.P.(C).NO.16423/09.
- EXT.P3: TRUE COPY OF THE ORDER DATED 10.7.2009 PASSED BY THE 2ND RESPONDENT.
- EXT.P4: TRUE COPY OF THE ORDER DATED 19.9.2009 PASSED BY THE 2ND RESPONDENT.
- EXT.P5: TRUE COPY OF THE ORDER OF THIS HONOURABLE COURT DATED 05-11-2009 IN W.P.(C).NO.30021 OF 2009.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE.

Prv/2.

K. Vinod Chandran, J

W.P.(C).No.32359 of 2009-L

Dated this the 29th day of July, 2015

JUDGMENT

The petitioner is aggrieved with Ext.P4 which is an order passed under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 [for brevity “the Sand Act”].

2. The petitioner's vehicle, bearing registration No.KL-07-X-5524, was seized by the 1st respondent on the allegation that inter-district transport of river sand was made without a valid pass for the same. According to the petitioner, he has obtained Exhibit P1 pass for transportation of sand. The petitioner thereupon made an application before the 2nd respondent, requesting to make an enquiry into the matter and for release of the vehicle. Since there was delay, the petitioner approached this Court and this Court by judgment at Exhibit P2, directed consideration of the application and also release of the vehicle, if an application for interim custody was made. Consequently, Exhibit P3 order was passed allowing interim custody on conditions. Thereafter the

matter was finally adjudicated, finding that the petitioner committed the offence under the Sand Act and ordered confiscation of the vehicle. An amount of Rs.4,00,000/- was directed to be remitted towards the River Management Fund. This Court, while admitting the writ petition, granted an interim stay of all further proceedings pursuant to Exhibit P4.

3. A reading of the orders at Exhibit P3 and P4 would show that the vehicle was seized on the ground that the petitioner has no inter-district pass for transporting river sand. The petitioner was afforded an opportunity for personal hearing. He has produced a Form P Cash Memorandum, issued by the Secretary of the Panchayat. The 2nd respondent, District Collector, considered Exhibit P1 receipt and found that the same is not sufficient to carry out an inter-district transport of river sand and even doubted the veracity of the said receipt, since it does not contain the signature of the Secretary of the Panchayat. At the time of personal hearing, no further document supporting transport of river sand was produced. Hence, the 2nd respondent finalised the proceedings ordering confiscation of the vehicle and directed

remittance of Rupees Four Lakhs, the value of the vehicle as fixed by the Joint Regional Transport Officer. On a consideration of the totality of circumstances, this Court does not find any reason to interfere with Exhibit P4 order.

4. However, the petitioner is granted two months time from today to remit the amount as directed in Exhibit P4. If the petitioner does not pay the amount as directed above, the respondent authority would be entitled to recover the same from the petitioner by appropriate proceedings, including seizure and sale of the vehicle bearing registration No.KL-07-X-5524.

Writ petition is dismissed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]