

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WP(C).No. 30777 of 2013 (V)

PETITIONER :

**BALAKRISHNAN NAIR, S/O.KESAVAN NAIR,
VAZHAVILAYIL HOUSE, THAMRAKULAM P.O.,
ALAPUZHA**

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

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM - 695 001**
- 2. DISTRICT COLLECTOR,KOTTAYAM 686 001**
- 3. THAHASILDAR, TALUK OFFICE,
CHANGANASSERY, KOTTAYAM - 686 101**
- 4. VILLAGE OFFICER, CHANGA 686 101**
- 5. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM - 695 001**

R1 TO R5 BY SENIOR GOVERNMENT PLEADER SMT. ANITHA RAVINDRAN

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

bp

WP(C).No. 30777 of 2013 (V)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF REGISTRATION CERTIFICATE OF THE VEHICLE
BEARING REG.NO KL-31A-699(JCB).**

**EXHIBIT P2: TRUE COPY OF MAHAZAR DATED 27-11-2013 PREPARED BY THE
VILLAGE OFFICER, CHANGANASSERY.**

**EXHIBIT P3: TRUE COPY OF THE NOTIFICATION ISSUED UNDER SRO 827/91
PUBLISHED ON 26-06-1991.**

**EXHIBIT P4: TRUE COPY OF THE NOTIFICATION NO 32010/L2/93/ID
DATED 22-06-1995 (SRO 860/95 DATED 4-07-1995)**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON J.

W.P.(C) No.30777 of 2013

Dated, this the 3rd day of March, 2015

JUDGMENT

The vehicle bearing No.**KL-31-A-699(JCB)** was seized by the **4th 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 respondents are 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 **13.12.2013**, 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 concerned 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 **13.12.2013** 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 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**

rkc