

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 31119 of 2013 (L)

PETITIONER(S) :

- 1. ANTONY THOMAS,
S/O.THOMAS, KANNANKOTTAL, PAIPPAD,
CHANGANASSERRY (OWNER OF TIPPER LORRY BEARING REG.
NO.KL-46-D-705).**
- 2. TOBY PHILIP,
S/O.PHILIP, KORATHARA HOUSE, KANNADY P.O,
PULINKUNNU, (OWNER OF JCB BEARING REG.NO.KL-40-6899)**

**BY ADVS.SRI.T.P.PRADEEP
SRI.P.K.SATHEESH KUMAR**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. DIRECTOR OF MINING AND GEOLOGY,
DEPARTMENT OF MINING AND GEOLOGY,
THIRUVANANTHAPURAM-695 001.**
- 3. THE DISTRICT COLLECTOR,
KOTTAYAM-686 001.**
- 4. SUB INSPECTOR OF POLICE,
CHANGANASSERY POLICE STATION,
KOTTAYAM DISTRICT-688 101.**

BY SR.GOVERNMENT PLEADER SMT ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

WP(C).No. 31119 of 2013 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

**P1: TRUE COPY OF THE RELEVANT PAGES OF R.C BOOK OF THE TIPPER
LORRY BEARING REG.NO.KL-46-D-705.**

**P2: TRUE COPY OF THE RELEVANT PAGES OF R.C BOOK OF THE JCB
BEARING REG.NO.KL-40-6899.**

P3: TRUE COPY OF THE SEIZURE MAHAZAR DATED 15.12.2013.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.31119 of 2013

Dated this the 27th day of February, 2015

JUDGMENT

The petitioners' vehicles bearing Nos.KL-46-D-705, KL-40-6899 were 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 said respondent is 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 16.12.2013, the vehicles were caused to be released, **on satisfaction of a sum Rs.25,000/-** and **on executing a simple bond** by the first petitioner. In the said circumstance, the further course of action required is to surrender the vehicles 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/- for each vehicle. The amount ordered to be paid as per the interim order dated 16.12.2013 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 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.**

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