

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 30283 of 2015 (I)

PETITIONER(S):

**NASEER, S/O.KAREEM, AGED 33 YEARS,
NEDUMPILLI, OONNUKAL P.O.,
NERYAMANGALAM VILLAGE, KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT, (OWNER OF LORRY
BEARING REGISTRATION NO.KL-17-1911).**

BY ADV. SRI.P.M.ZIRAJ.

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
POTHANIKKAD POLICE STATION,
ERNAKULAM DISTRICT-686 693.**
- 2. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA, ERNAKULAM DISTRICT-686 693.**
- 3. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT-682 030.**

BY GOVT. PLEADER SMT.C.K. SHERIN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE FIRST INFORMATION REPORT NO.646/2015
DATED 26/09/2015 OF POTHANIKKAD POLICE STATION.
- EXT.P2 COPY OF THE SEIZURE MAHAZAR DATED 26/09/2015
PREPARED BY THE FIRST RESPONDENT.
- EXT.P3 COPY OF THE PASS ISSUED BY THE TAHSILDAR, DEVIKULAM
DATED 23/09/2015 PERMITTING THE PETITIONER TO TRANSPORT
RIVER SAND IN HIS VEHICLE.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.30283 of 2015

Dated this the 12th day of October, 2015

JUDGMENT

The petitioner has approached this Court on account of seizure of his vehicle bearing registration No.KL-17-1911.

2. The petitioner submitted that he is transporting river sand with valid pass. Ext.P3 is the valid pass. It is submitted that in the pass, no route has been prescribed. It is further submitted that the first respondent seized the vehicle alleging that the petitioner deviated the route and registered a case under the Mines and Minerals(Development and Regulation) Act.

This Court is of the view, if the petitioner is transporting river sand, necessarily, it has to be dealt under the Kerala Protection of River Banks and Regulation of Removal of Sand Act and not under the Mines and Minerals(Development and Regulation) Act. If the petitioner is transporting the river sand with valid pass, necessarily, the petitioner's vehicle cannot be detained. Therefore, this Court is of the view, the second respondent shall take a decision in the

matter to release the vehicle for interim custody within one week from the date of receipt of a copy of this judgment. If the pass has been issued to the petitioner and it does not contain any route, without imposing any condition, the vehicle shall be released to the petitioner. Needful shall be done within one week from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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