

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

WP(C).No.33384 of 2011 (W)

PETITIONER:

**SABU MATHEW,S/O.MATHEW,AGED 43 YEARS,
PUTHANPURAYIL HOUSE,KUTHIRAKALLU,
MARIYAPURAM P.O.,IDUKKI,IDIKKI DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENTS:

- 1. THE SUB COLLECTOR,
COLLECTORATE,IDUKKI,PIN-685602.**
- 2. THE ADDITIONAL TAHSILDAR,
THODUPUZHA,IDUKKI DISTRICT,
PIN-685584.**
- 3. THE VILLAGE OFFICER,
IDUKKI VILLAGE,IDUKKI DISTRICT,
PIN-685602.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

W.P(C) NO.33384/2011

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE THIRD
RESPONDENT DATED 2.12.2011.**

**EXT.P2:TRUE COPY OF THE REPORT SUBMITTED BY THE 2ND RESPONDENT TO
THE FIRST RESPONDENT DATED 6.12.2011.**

**EXT.P3:TRUE COPY OF THE INTERIM ORDER DATED 3.4.2009 IN W.P(C)
NO.11206/2009 OF THIS HONOURABLE COURT.**

**EXT.P4:TRUE COPY OF THE INTERIM ORDER DATED 7.12.2011 IN W.P(C)
NO.31828/2011 OF THIS HONOURABLE COURT.**

**EXT.P5:TRUE COPY OF THE INTERIM ORDER DATED 3.6.2011 IN W.P(C)
NO.15058/2011 OF THIS HONOURABLE COURT.**

**EXT.P6:TRUE COPY OF THE INTERIM ORDER DATED 11.3.2011 IN W.P(C)
NO.7689/2011 OF THIS HONOURABLE COURT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 33384 of 2011

Dated this the 24th day of February, 2015

JUDGMENT

The petitioner is the owner of the vehicles bearing Nos. **KL-06E/3616** & **KL-06C/7644**, which was seized by the **3rd respondent** on 2.12.2011 alleging violation of the provisions of MMDR Act/KMMC Rules. This made the petitioner to approach this Court challenging the proceedings, mainly contending that the 3rd respondent does not have any power jurisdiction or competence to have seized the vehicles in any manner.

2. Heard the learned Government Pleader as well.

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 **14.12.2011**, the vehicles were caused to be released, **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 said 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 it compounded on satisfying the compounding fee of ₹25,000/- for each vehicle within **two weeks** from the date of receipt of a copy of this judgment. 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 compounding the offence, 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.

kp/-