

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 34059 of 2011 (F)

PETITIONER(S):

**P. MUNEEER, S/O.MOIDEEN,
AGED 31 YEARS, PADIKKAL HOUSE,
PADINJATTUMURI, KOOTILANGADI,
MALAPPURAM DISTRICT.**

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

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
MALAPPURAM-676 505.**
- 2. THE TAHSILDAR, TIRUR,
MALAPPURAM DISTRICT-676 101.**
- 3. THE VILLAGE OFFICER,
PERUMANNA VILLAGE,
MALAPPURAM DISTRICT-673 026.**

BY GOVT. PLEADER SRI.M. MUHAMMED SHAFI.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

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APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE SEIZURE MAHAZAR PREPARED BY THE
THIRD RESPONDENT DATED 14/12/2011.
- EXT.P2 COPY OF THE INTERIM ORDER DATED 03/04/2009 IN
WP(C).NO. 11206/2009 OF THIS HON'BLE COURT.
- EXT.P3 COPY OF THE INTERIM ORDER DATED 07/12/2011 IN
WP(C).NO. 31828/2011 OF THIS HON'BLE COURT.
- EXT.P4 COPY OF THE INTERIM ORDER DATED 03/06/2011 IN
WP(C).NO.15058/2011 OF THIS HON'BLE COURT.
- EXT.P5 COPY OF THE INTERIM ORDER DATED 11/03/2011 IN
WP(C).NO.7689/2011 OF THIS HON'BLE COURT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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Dated, this the 9th day of March, 2015

JUDGMENT

The vehicle bearing No. **KL 11 X 4318** was seized by the **3rd respondent/Village Officer** 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 **3rd** respondent is not having the jurisdiction or authority to effect seizure.

2. Heard both the sides.

3. The authority of the **3rd** 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 20.12.2011, the vehicle was caused to be released, on execution of a simple bond before the 1st respondent. In the said circumstance, the further course of action required is to surrender the vehicle before the 1st respondent, so as to enable the 1st 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 Rs.25,000/- 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

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: 3 :

1st respondent shall pursue further steps to seize the vehicle and proceed with steps for prosecution.

The writ petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd