

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937**

**WP(C).No. 37630 of 2015 (C)**  
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**PETITIONER(S):**  
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**A.C.ANILKUMAR, AGED 36 YEARS,  
S/O.CHANDRAN, H. NO IV/215A, EDAKKATTU HOUSE,  
KARUMALLOOR PANCHAYATH, KARUMALLOOR VILLAGE,  
THADIKKA KADAVU, WEST VELIYATHUNADU P. O., ALUVA,  
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.C.K.SAJEEV  
SRI.M.T.AJITH  
SMT.S.REKHA KUMARI**

**RESPONDENT(S):**  
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**DEPUTY DIRECTOR,  
DIRECTORATE OF ENFORCEMENT, GOVERNMENT OF INDIA,  
COCHIN ZONAL OFFICE, 4TH FLOOR, THARAKANDAM CENTRE,  
BANERJEE ROAD, COCHIN - 682 018.**

**BY ADVS. SMT.C.G.PREETHA, CGC  
SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
22-12-2015, ALONG WITH WPC. 37757/2015, THE COURT ON THE  
SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1:-A TRUE COPY OF THE PURCHASE DEED HAVING 4641/2006 OF ALUVA SUB  
REGISTRY
- P2:-TRUE COPY OF THE ABSTRACT ESTIMATE OF RESIDENTIAL BUILDING
- P3:-TRUE COPY OF THE PERMIT ISSUED BY THE KARUMALLOOR GRAMA  
PANCHAYATH DTD 22/8/2008
- P4:-TRUE COPY OF THE SALE AGREEMENT PERTAINING TO THE SERVICE BUS  
HAVING REGISTRATION NO KL 40A 3038 DTD 4/9/2009
- P5:-TRUE COPY OF THE PARTNERSHIP DEED DTD 1/9/2009
- P6:-TRUE COPY OF THE COMPLAINT DTD 18/9/2009
- P7:-TRUE COPY OF THE STAY ORDER IN CRL.MA 973/2013 IN CRL.MC NO 584/2013  
DTD 7/8/2013
- P8:-TRUE COPY OF THE ORDER IN CMP NO 3024/2009 AND 3133/09 IN CRIME  
NO 2440/09 DTD 4/11/2009 BY THE JFCM COURT I
- P9:-A TRUE COPY OF THE FINAL REPORT IN CRIME NO 2440/09 OF ALUVA POLICE  
STATION WHICH IS RE-NUMBERED AS CC NO 924/09 BY THE JMFC II, ALUVA
- P10:-TRUE COPY OF THE PROVISIONAL ATTACHMENT ORDER NO 1/10 DTD 21/9/2010
- P11:-TRUE COPY OF THE ORIGINAL COMPLAINT NO 67/2010
- P12:-TRUE COPY OF THE ADJUDICATING ORDER
- P13:-THE NOTICE DTD 31/7/2013
- P14:-A TRUE COPY OF THE JUDGMENT IN CRL.MC NO 3785/2013 DTD 23/9/2013
- P15:-THE CERTIFIED COPY OF THE ORDER IN FPA-PMLA-335/COCHIN/2012  
DTD 10/10/2013
- P16:-A TRUE COPY OF THE JUDGMENT IN CRL.MC NO 2716/2014 DTD 10/2/2015

**RESPONDENT(S)' EXHIBITS:**  
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NIL

//TRUE COPY//

P.S.TO JUDGE

**A. MUHAMED MUSTAQUE, J.**

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**W.P.(C).No. 37630 & 37757 of 2015**  
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**Dated this the 22<sup>nd</sup> day of December, 2015**

**JUDGMENT**

These writ petitions are filed seeking a direction to release the attached immovable property as well as vehicle consequent upon proceedings initiated under the Prevention of Money Laundering Act, 2002. Though, there is a challenge made by the writ petitioner in W.P.(C).No.37630/2015 regarding the final adjudication of the attachment under the Act, this challenge is not maintainable as the petitioner has an alternate remedy by way of filing an appeal before this Court in terms of Section 42 of the Act. Therefore, that prayer is not considered in view of the alternate remedy available to the petitioner.

2. However, the question arises for consideration is whether the petitioner is entitled for release of this attached immovable property pending proceedings before the court where the cases against the accused are pending. The petitioners submit that in terms of the Prevention of Money Laundering (Taking possession of the attached or frozen property confirmed by the Adjudicating Authority) Rules, 2013, the petitioners may be given the custody of the vehicle as well as the permit to use the immovable property.

3. The learned Assistant Solicitor General submits that the writ petition in W.P.(C).No.37757/2015 has no locus standi to move this Court as he is not an owner of the vehicle.

4. The attachment, in fact, would remain in force till a decision is taken by the Criminal Court. The case is pending as S.C.No.160/2012 before the Special Court under the Prevention of Money Laundering Act.

5. This Court is of the view whether the petitioners are

entitled to get custody of the vehicle or entitled to use the immovable property is a matter, can be considered by the Special Court if an application is filed by the petitioners. This Court need not invoke power under Article 226 of the Constitution of India, to order this release as the Special Court can have the control over the entire proceedings, even if, the petitioners claim for release are allowed in terms of the above Rules. Therefore, leaving open all the questions including the locus standi of W.P.(C).No.37757/2015, the following directions are issued :

The petitioners applications shall be considered by the Special Court. It is submitted by the learned counsel for the petitioner in W.P.(C).No.37757/2015, they have already filed Crl.M.C.No.584/2013 before this Court challenging the proceedings initiated under the Act and there is a stay against the proceedings before the Special Court. In that view of the matter, if the petitioner obtain a permission from the Criminal M.C pending before this Court, the application

of W.P.(C).No.37630/2015 need be considered only based on such permission of this Court. The Sessions Court shall also consider the locus standi of W.P.(C). No.37757/2015.

The writ petition is disposed of as above.

Sd/-  
**A. MUHAMED MUSTAQUE**  
**JUDGE**

bpr