

Rasheed Vs. the District Collector

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Court : Kerala

Decided On : Jan-29-2013

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Rasheed

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON TUESDAY, THE 29TH DAY OF JANUARY 2013 9TH MAGHA 193 WP(C).No. 2631 of 2013 (D) ----- PETITIONER(S): ----- RASHEED, S/O.POKKER, PUTHUKALANGEL HOUSE, NADUVATTOM P.O., TIRUR, MALAPPURAM DISTRICT. BY ADVS. SRI.NAGARAJ NARAYANAN, SRI.SAIJO HASSAN, SRI.BENOJ C AUGUSTIN, SRI.SEBIN THOMAS, SRI.PRATHAP PILLAI, SMT.J.KASTHURI, SRI.SWATHY DAS, SRI.P.E.SAJAL. RESPONDENT(S): ----- 1. THE DISTRICT COLLECTOR, MALAPPURAM.

2. THE SUB INSPECTOR OF POLICE, TIRUR, TIRUR P.O., MALAPPURAM-676 101. BY GOVT. PLEADER MR.S. JAMAL. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-01-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: rs. WP(C).No. 2631 of 2013 (D) APPENDIX PETITIONER'S EXHIBITS:- EXHIBIT P1. TRUE COPY OF THE REGISTRATION CERTIFICATE OF VEHICLE NUMBER KL.7.E.6234. EXHIBIT P2. TRUE COPY

OF THE AGREEMENT THE BETWEEN PETITIONER AND THE OWNER OF THE VEHICLE. EXHIBIT P3. TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 22 01.2013. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE rs. P.R. RAMACHANDRA MENON J.

~~~~~ W.P.(C) No. 2631 of 2013  
~~~~~ Dated, this the 29th day of January, 2013  
JUDGMENT The vehicle bearing No. KL 7 E 6234.stated as owned and possessed by the petitioner, was seized by the second respondent on 21.01.2013, allegedly for illegal transportation of river sand, invoking the relevant provision under Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002. . The petitioner has filed Ext. P3 application before the first respondent for granting interim custody of vehicle, but till date the same is not released to the petitioner and hence is before this Court for appropriate relief.

2. Heard the learned Government Pleader as well.

3. The manner in which how the proceedings are to be dealt with and finalized has already been declared as per the decision reported in Shan C.T. v. State of Kerala [2010 (3) KHC 33.=2010(3)KLT 413]. Operative portion of the said judgment as contained in paragraph 12 and 13 reads as follows: W.P.(C) No. 2631 of 2013 :

2. : "12. Having regard to the facts and circumstances of the case, we are of the opinion that interim custody of the vehicle can be granted on condition that the owner of the vehicle deposits 30% of the value of the vehicle as determined by the appropriate authority under the Motor Vehicles Act in cash and a further condition that the owner of the vehicle should provide either a bank guarantee or immovable property security for the balance of the value of the vehicle. The amount so deposited and the security furnished would follow the final outcome of the confiscation proceedings.

13. We also deem it appropriate to direct that the proceedings under S.23 of the above mentioned Act confiscating the vehicle shall be concluded within six weeks from the date of seizure of the vehicle as far as possible, in which case the need to consider the interim custody of the vehicle may not normally arise. But if for any

reason the authorities under the Act are not able to conclude the proceedings within the period of six weeks mentioned above, the interim custody of the vehicle shall be given to the owner on the conditions specified earlier. It is also made clear that to avoid any controversy and the allegations of undue delay on the part of either party to the proceedings, the competent authority shall put the W.P.(C) No. 2631 of 2013 :

3. : owner on notice within a period of three days of the date of seizure and the owner or any other person interested in the vehicle shall file his objections to the confiscation within a week thereafter." 4. In the said circumstance, the 1st respondent is directed to consider Ext.P3 and pass appropriate order in accordance with law, as aforesaid, granting interim custody of the vehicle forthwith, on satisfying the requirements. The petitioner will produce a copy of this judgment along with a copy of the Writ Petition before the concerned authority for appropriate action. Writ petition is disposed of. Sd/ P. R. RAMACHANDRA MENON, (JUDGE) kmd

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