

Nisar Vs. the Sub Inspector of Police, Tirur Police Station

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Court : Kerala

Decided On : Nov-27-2013

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

Appellant : Nisar

Respondent : The Sub Inspector of Police, Tirur Police Station

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON WEDNESDAY, THE 27TH DAY OF NOVEMBER 2013 6TH AGRAHAYANA, 1935 WP(C).No. 29193 of 2013 (Y) ----- PETITIONER : ----- 1. NISAR, ILLATH PARAMBIL HOUSE, K.PURAM P.O, TANUR, MALAPPURAM DISTRICT (REGD. OWNER OF VEHICLE BEARING REG.NO.KL-10/H-8595 - GOODS CARRIAGE) BY ADV. SRI.K.K.MOHAMED RAVUF RESPONDENT(S): ----- 1. THE SUB INSPECTOR OF POLICE, TIRUR POLICE STATION, MALAPPURAM DISTRICT - 676 101.

3. THE REVENUE DIVISIONAL OFFICER, TIRUR, MALAPPURAM DISTRICT - 676 101. R1 & R2 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.11.2013, ALONG WITH WP(C)NO.29212 OF 2013 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: sts WP(C).No. 29193 of 2013 (Y) ----- APPENDIX PETITIONER(S)' EXHIBITS

----- EXT.P1 - TRUE COPY OF THE REGISTRATION
CERTIFICATE OF THE VEHICLE BEARING REG. NO. KL-10/H-8595 EXT.P2 -
TRUE COPY OF THE MAHAZAR PREPARED BY THE 1ST RESPONDENT
DATED 15-11-2013 EXT.P3- TRUE COPY OF THE

JUDGMENT

DATED 28-2-2013 IN WPC.NO.5692/2013 OF THIS HON'BLE COURT.
RESPONDENT(S)' EXHIBITS: NIL /TRUE COPY/ P.A.TO.JUDGE sts P.R.
RAMACHANDRA MENON, J.

===== W.P.(C). No. 29193 & 29212 of 2013
----- Dated this the 27th day of November, 2013

JUDGMENT

Petitioners are owners of the vehicles bearing Nos. KL- 10/H8595 and KL-07/N-471. The vehicles were seized by the respondents alleging violation of the provisions contained in the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001. Now the petitioners have approached this Court seeking for a direction to be issued to the concerned respondent to give interim custody of the above vehicles to the petitioners forthwith as per the direction contained in 2010 (3) KLT413 and Ext.P3 judgment.

2. Heard the learned Government Pleader as well.

3. In the said circumstance, the 2nd respondent is directed to consider the claim for interim custody of the vehicles within two weeks, subject to satisfaction of the conditions as per the Full Bench decision of this Court reported in Shan C.T. v. State of Kerala [2010 (3) KHC333=2010(3)KLT413. Operative portion of the said judgment as contained in paragraphs 12 and W.P.C. Nos. 29193 & 29212 of 2013 -2- 13 reads as follows: "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 W.P.C. Nos. 29193 & 29212 of 2013 -3- on the part of either party to the proceedings, the competent authority shall put the 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. It is made clear that, on final adjudication, if it is proved that the petitioners were transporting 'river sand' in contravention of the provisions of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001, further proceedings shall be pursued in accordance with the law declared by Division Bench of this Court in Sujith V State of Kerala (2012 (2) KLT547. The petitioners shall produce a copy of this judgment along with a copy of the concerned Writ Petition before the 2nd respondent for appropriate action. P.R. RAMACHANDRA MENON, JUDGE. kp/-

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