SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Abbas Vs. the Sub Inspector of Police, Kondotty Police Station

Abbas Vs. the Sub Inspector of Police, Kondotty Police Station

SooperKanoon Citation : sooperkanoon.com/1099162

Court : Kerala

Decided On : Nov-19-2013

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

Appellant : Abbas

Respondent : The Sub Inspector of Police, Kondotty Police Station

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON TUESDAY, THE19H DAY OF NOVEMBER201328TH KARTHIKA, 1935 WP(C).No. 28296 of 2013 (J) ---------- PETITIONER(S)/PETITIONER: ---------- ABBAS, AGED42YEARS S/O.UNYAN KUTTY, VAKYATHODI HOUSE, OMANOOR P O MALAPPURAM(OWNER OF LORRY BEARING REGISTRATION NUMBER KL-10- T-9975) BY ADV. SRI.P.M.ZIRAJ RESPONDENT(S): ---------- 1. THE SUB INSPECTOR OF POLICE, KONDOTTY POLICE STATION MALAPPURAM DIST, PIN-676562 2. THE SUB DIVISIONAL MAGISTRATE, PERINTHALMANNA, MALAPPURAM DIST, PIN-680308 3. THE DIRECTOR MINING AND GEOLOGY OFFICE OF THE MINING AND GEOLOGY, KESAVADASAPURAM PATTAM, THIRUVANANTHAPURAM-695001 BY GOVERNMENT PLEADER SMT K.T. LILLY THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON1911-2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 28296 of 2013 (J) ---------- APPENDIX

PETITIONER(S)' EXHIBITS P1:-TRUE COPY OF THE MAHAZAR PREPARED BY THE FIRST RESPONDENT DTD269/2013 P2:-TRUE COPY OF THE REPRESENTATION DTD279/2013 SUBMITTED BY THE PETITIONER BEFORE TE2D RESPONDENT P3:-TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE2D RESPONDENT DTD279/2013 P4:-TRUE COPY OF THE

JUDGMENT
OF THIS HONOURABLE COURT DTD1110/2013 IN WPC NO25045OF 2013 RESPONDENTS EXHIBITS: NIL /TRUE COPY/ P.A. TO JUDGE SKV P.R.RAMACHANDRA MENON, J.

- W.P.(c) No.28296 OF2013- Dated this the 19th day of November, 2013

JUDGMENT
Petitioner is the owner of vehicle bearing Registration No. KL- 10-T-9975 and the said vehicle has been detained by the second respondent alleging that the vehicle was used for transportation of river sand in violation of the provisions contained in the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002. According to the petitioner, the vehicle was carrying ordinary sand at the time of interception and he has filed Exts.P2 and P3 representations requesting to send the sample to the Mining and Geology Department for analysis and to complete the adjudication proceedings. But till this date no action has been taken by the second respondent and hence the writ petition.

2. Heard the learned Government Pleader as well 3. A Full Bench of this Court in Shan C.T. v. State of Kerala W.P.(C)No.28296/2013 2 [2010 (3) KHC333=2010(3)KLT413 has laid down the manner in which the request for interim custody should be dealt with. Therefore, all what is necessary in the Writ Petition is to direct that the statutory authority to deal with the matter in the light of the provisions of the Act referred to above and in the manner as directed by the Full Bench of this Court in the judgment referred to above. Operative portion of the said judgment as contained in paragraphs 12 and 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 W.P.(C)No.28296/2013 3 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 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. Considering the facts and circumstances of the case, the second respondent is directed to consider the request of the petitioner for interim custody, in accordance with the law declared by the Full Bench of this Court in Shan C.T. vs. State of Kerala and others (2010 (3) KHC333) as expeditiously as possible, at any rate, within 'one week' from the date of receipt of a copy of this judgment. The W.P.(C)No.28296/2013 4 matter shall be finally disposed of within 'six weeks' from the date of receipt of a copy of the judgment. It is also made clear that the proceedings as above shall be finalised after by obtaining the lab analysis report of the sand. It is for the concerned respondent to take appropriate steps in connection with the prosecution proceedings, as made clear by the Division Bench of this Court in Sujith v. State of Kerala (2012 (2) KLT547, if the commodity tested is confirmed as 'river sand'. The petitioner shall produce a copy of this judgment along with a copy of the writ petition before the second respondent for further steps. The Writ Petition is disposed of. P.R.RAMACHANDRA MENON JUDGE sv.

W.P.(C)No.28296/2013 5 W.P.(C)No.28296/2013 6 P.R.RAMACHANDRA MENON JUDGE sv. W.P.(C)No.28296/2013 7 P.R.RAMACHANDRA MENON JUDGE sv. W.P.(C)No.28296/2013 8

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com