

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

WEDNESDAY, THE 30TH SEPTEMBER 2009 / 8TH ASWINA 1931

WP(C).No. 27453 of 2009(B)

PETITIONER(S):

**SIVASANKARAN NAIR K.,
S/O.KUNCHU PILLAI,
SREEVILASOM, VENMONY WEST,
VENMONY P.O., CHENGANNORE,
ALAPPUZHA DISTRICT.**

**BY ADV. MR.K.RAVEENDRAN
MR.ANIL KUMAR M.SIVARAMAN**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ALAPPUZHA.**
- 2. THE SUB INSPECTOR OF POLICE,
VENMONY.**

R1 & R2 BY GOVERNMENT PLEADER MR.P. NARAYANAN.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/09/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

P.N.RAVINDRAN, J.

W.P(C) No.27453 of 2009-B

Dated this the 30th day of September, 2009.

J U D G M E N T

Heard Sri.K.Raveendran, the learned counsel appearing for the petitioner and Sri.P.Narayanan, the learned Government Pleader appearing for the respondents .

2. The petitioner is the registered owner of a Tipper lorry bearing registration No.KL-30-2041. The said vehicle was seized by the second respondent Sub Inspector of Police, on 17.9.2009, on the allegation that it was used to transport river sand without a valid pass and produced before the first respondent. The petitioner submits that though he had requested the District Collector on several occasions to grant interim custody of the vehicle to him, till date orders have not been passed thereon. In this writ petition, the petitioner inter alia seeks a writ in the nature of mandamus commanding the respondents to release the vehicle to him, by way of interim custody.

3. A learned Single Judge of this Court has in Subramanian V. State of Kerala (2009(1) KLT 77) while upholding the constitutional validity of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 held that the District Collector has the power to direct release of any vehicle which is seized and produced before him, by way

of interim custody. In such circumstances, I am of the opinion that the petitioner ought to have moved the District Collector in writing seeking interim custody of his vehicle instead of seeking the intervention of this Court. I accordingly dispose of this writ petition with the following directions:

i) The District Collector, Alappuzha shall in the event of the petitioner filing an appropriate representation seeking interim custody, release the vehicle to him by way of interim custody subject to such terms and conditions as he may deem fit to impose.

ii) The District Collector shall pass final orders in the proceedings initiated by him under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 and the rules framed thereunder within three months from such date after affording the petitioner a reasonable opportunity of being heard.

Sd/-

P.N.RAVINDRAN
JUDGE

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PA to Judge