

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE S.SIRI JAGAN

TUESDAY, THE 31ST DAY OF JANUARY 2012/11TH MAGHA,1933

WPC.No. 2492 of 2012 (J)  
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PETITIONER(S) :  
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PRADEEP M  
S/O.NARAYANAN NAIR,AGED 30 YEARS, MUNDATH HOUSE, NJAGHATTIRI  
P.O,KANNANNUR DESOM, THRITALA,PALAKKAD DISTRICT.  
(REGISTERED OWNER OF KL-07-P-5191).

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S) :  
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1. THE SUB DIVISIONAL MAGISTRATE/  
REVENUE DIVISIONAL OFFICER, OTTAPPALAMR  
P.O OTTAPPALAM, PALAKKAD DISTRICT PIN 679 101.
2. SUB INSPECTOR OF POLICE  
THRITHALA POLICE STATION, THRITHALA P.O  
PALAKKAD DISTRICT 679 101.

BY GOVERNMENT PLEADER SRI JAMES MATHEW KADAVAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
31-01-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RK

WPC.No. 2492 of 2012 (J)

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APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE REQUEST FOR INTERIM CUSTODY OF THE VEHICLE DATED  
27-1-12 SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT.

RESPONDENTS EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE

RK

S. Siri Jagan, J.

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W.P(C) No. 2492 of 2012

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Dated this, the 31<sup>st</sup> day of January, 2012.

J U D G M E N T

Petitioner's vehicle has been seized on allegation of illegal transportation of river sand in violation of the Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001. The seizure was on 26.1.2012. The petitioner's grievance is that neither final orders are being passed nor is the petitioner given interim custody of the vehicle. The petitioner seeks the following reliefs:

- “I. Issue a writ of mandamus directing the respondents to release the vehicle bearing Reg. No. KL-07/P-5191 to the petitioner on interim custody.
- II. Issue a writ of mandamus directing first respondent to consider Ext.P1 application for interim release of the vehicle and pass orders on the same within a time limit.”

But, it is doubtful as to whether the Revenue Divisional Officer is competent to pass orders now, since the amendment ordinance investing the RDO with such powers has lapsed and the right for the same has not been re-introduced. In the above circumstances, I am inclined to consider the claim of the petitioner for interim custody in this writ petition itself.

2. Having the learned Government Pleader also, I am of opinion that interim custody can be given on the same conditions as laid down in the Full Bench decision of this Court in **Shan C.T. v. State of Kerala & Others**, 2010(3) KHC 333. Orders in this regard shall be passed by the competent among the respondents, as expeditiously as possible, at any rate, within one

week from the date of receipt of a copy of this judgment. But, I make it clear that if, as held in the Full Bench decision, the vehicle has been seized earlier for similar offences, custody shall not be given to the petitioner.

The writ petition is disposed of as above.

Sd/- S. Siri Jagan, Judge.

Tds/