

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 29TH DAY OF APRIL 2014/9TH VAISAKHA, 1936

WP(C).No. 11649 of 2014 (E)

PETITIONER :

**SUBAIR,S/O.KADAR,
17/1A, ELLATH PARAMBIL HOUSE,
NEAR JUMA ATH PALLI, PONNANI.**

**BY ADVS.SRI.K.M.FIROZ
SMT.M.SHAJNA**

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
KUTTIPURAM POLICE STATION, MALAPPURAM- 676 571.**
- 2. THE REVENUE DIVISIONAL OFFICER/
SUB DIVISIONAL MAGISTRATE, CIVIL STATION,
TIRUR, MALAPPURAM - 676 101.**
- 3. THE DISTRICT COLLECTOR,
CIVIL STATION, MALAPPURAM -676 505.**

R1 TO R3 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-04-2014,ALONG WITH WP(C)NO.11664 OF 2014 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No. 11649 of 2014 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 - A TRUE COPY OF THE APPLICATION DATED 23-2-2014 SUBMITTED BY
THE PETITIONER BEFORE THE 2ND RESPONDENT IN RESPECT OF
VEHICLE NO.KL-10-N-5789

EXT.P2 - A TRUE COPY OF THE SEIZURE MAHAZAR DATED 22-2-2014
PREPARED BY THE 1ST RESPONDENT IN RESPECT OF VEHICLE NO.
KL-10-N-5789.

EXT.P3 - A TRUE COPY OF THE RELEVANT PORTION OF THE REGISTRATION
CERTIFICATE OF THE PETITIONER'S VEHICLE NO.KL-10-N-5789.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.S.TO.JUDGE

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ALEXANDER THOMAS, J.

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W.P.(C).Nos.11649, 11664, 11668 & 11674 of 2014

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Dated this the 29th day of April, 2014

J U D G M E N T

All the above Writ Petitions pertain to issue of grant of interim custody of the seized vehicles to the petitioners concerned consequent to the seizure of the vehicles for alleged violation of the provision of the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001 and the Rules framed thereunder. It is common ground that the main matter in issue is covered by the judgment of the Full Bench of this Court rendered in the case between **Shan v. State of Kerala** reported in 2010(3) KLT 413 (FB). The main directions rendered by the Full Bench in the said decision are contained in paragraphs 12 and 13 of the above said reported decision, which reads thus:

“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 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."

In the light of the aforementioned directions laid down by the Full bench, interim custody of the vehicles can be granted to the petitioners on condition that the owner of the vehicle deposits in cash 30% of the value of the vehicles as determined by the appropriate authority in the Motor Vehicle Act and a further condition that the owner of the vehicle shall provide either a bank guarantee or immovable property security for the balance of the value of the vehicle and that the amount so deposited and the security deposit furnished would follow the final outcome of the confiscation proceedings. It was further directed that the proceedings under Section 23 of the above said Act confiscating the vehicle should be concluded within six weeks from the date of seizure of the vehicle as far as possible etc.

2. The learned counsel for the petitioners, Sri.K.M.Firoz submitted that the petitioners in the above Writ Petitions have submitted necessary applications as per Ext.P1 before the

competent authority, viz., the 2nd respondent-Sub Divisional Magistrate concerned. Under these circumstances, the 2nd respondent-Sub Divisional Magistrate shall consider the request of the petitioners contained in Ext.P1 in the light of the directions issued by the Full Bench quoted above and upon the petitioners furnishing cash deposit to the tune of 30% of the value of the vehicle as assessed by the competent officer of the Motor Vehicle Department and on furnishing immovable property security for the balance value of the vehicle, shall grant interim custody of the vehicle to the respective petitioners. The learned Government Pleader submits that some time may be required to get the value of the respective vehicles assessed by the competent officer under the Motor Vehicles Department. It is directed that the final orders shall be passed on the applications for interim custody of the vehicles as submitted by the petitioners within a period of six weeks from the date of receipt of a copy of this judgment. It is further ordered that the final orders in the confiscation proceedings as per Section 23 of the aforementioned Act shall also be passed without any avoidable delay.

With the aforementioned directions and observations, the
Writ Petitions stand finally disposed.

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ALEXANDER THOMAS , JUDGE

///True copy///

P.S. to Judge