

Kerala High Court

Thomaskutty Abraham vs District Collector on 4 February, 2008

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C) No. 2469 of 2008(R)

1. THOMASKUTTY ABRAHAM,S/O.KOCHUKUTTY
... Petitioner

Vs

1. DISTRICT COLLECTOR,
... Respondent

2. SUB COLLECTOR,THIRUVALLA.

3. SUB INSPECTOR OF POLICE

For Petitioner :SRI.R.GIREESH VARMA

For Respondent : No Appearance

The Hon'ble MR. Justice ANTONY DOMINIC

Dated :04/02/2008

O R D E R

ANTONY DOMINIC, J.

W.P.(C) 2469 of 2008

Dated: February 4, 2008

JUDGMENT

Ext.P2 is a mahazar prepared on 13.8.2007 seizing a country boat belonging to the petitioner on the allegation of unauthorised transportation of river sand. It is stated by the petitioner that after the seizure, he had no notice of further proceedings. It is stated that in October 2007, he was served with Ext.P1 order issued by the Sub Collector directing to remit Rs.2 lakhs towards the value of the country boat and Rs.25000/- towards fine. It is challenging Ext.P1 that this writ petition has been filed.

2. Rule 27 of the Protection of River Banks and Regulation of Removal of Sand Act and Rules, 2002 is the only provision of the rules allowing realisation of the value of the country boat and levy of fine. This rule provides that the District Collector shall exercise powers provided in the Rules. A reading of Ext.P1 shows that it does not show that the 1st respondent has exercised the power so conferred on him. In the absence of any enabling provision, the 1st WP(C) 2469/2008 Page numbers respondent cannot delegate his power and hence, the 1st respondent should not have delegated the power to the 2nd respondent.

Therefore, Ext.P1 order requiring the petitioner to remit the value and fine issued by the 2nd respondent is without jurisdiction. Hence Ext.P1 will stand quashed.

The 1st respondent shall issue notice to the petitioner herein and pass fresh orders in accordance with Rule 27 of the Protection of River Banks and Regulation of Removal of Sand Rules, 2002.

This shall be done as expeditiously as possible in the event of production of a copy of this judgment.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE mt/-