

Kerala High Court

Abdul Basheer vs State Of Kerala on 20 February, 2009

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WP(C).No. 3583 of 2009(B)

1. ABDUL BASHEER, S/O.MAMMOO,PARAMBIL HOUSE  
... Petitioner

Vs

1. STATE OF KERALA, REP.BY CHIEF SECRETARY,  
... Respondent

2. THE DISTRICT COLLECTOR,MALAPPURAM DIST.

3. CIRCLE INSPECTOR OF POLICE,KONDOTTI

4. SECRETARY,KAVANAN GRAMA PANCHAYAT,

For Petitioner :SRI.K.K.DHEERENDRAKRISHNAN

For Respondent : No Appearance

The Hon'ble MR. Justice ANTONY DOMINIC

Dated :20/02/2009

O R D E R

ANTONY DOMINIC, J.

-----  
W.P. (C).No.3583 OF 2009  
-----

Dated this the 20th day of February, 2009.

JUDGMENT

Challenge in this writ petition is against Ext.P8.

2. Petitioner is the registered owner of the 2006 model Mini Lorry bearing Registration No.KL 10AA 955. The vehicle was seized on 30.8.2008, on the allegation that it was used for the transportation of river sand. By Ext.P8, the District Collector found that the vehicle was used for the transportation of

river sand in violation of the Kerala Protection of River Banks and Regulation of Removal of Sand Act. On the basis of the aforesaid conclusion, the petitioner has been ordered to remit Rs.2,50,000/- being the value of the vehicle to the River Management Fund. It is challenging this order, that this writ petition is filed.

3. Counsel for the petitioner submits that the transportation was on the basis of Ext.P3 pass and therefore the proceedings initiated are totally unwarranted.

4. It would appear from Ext.P8 itself that this contention was raised before the District collector. However, the contention was rejected for the reason that, the Collector had found that though pass was issued, the load lifted from the designated Kadavu, was not registered in the Kadavu Register maintained in terms of the Rules framed under the Act. So long as in the Kadavu Register, particulars of the vehicle are not mentioned, the only necessary inference is that the vehicle has not reached in the Kadavu or that the vehicle has not lifted any load from Kadavu in question. Further, the Secretary of the Panchayat, who issued the pass also has deposed before the District Collector that the petitioner was transporting river sand from some other place. It is on this factual materials that the District Collector has concluded that the vehicle has been used for the unauthorized transportation of river sand. These factual conclusions are unassailable and therefore I do not find any reason to accept the plea of the counsel for the petitioner that Ext.P8 is illegal.

In so far as the value of the vehicle is concerned, being a 2006 model vehicle and as the value has been fixed on the basis of the assessment made by the officers of the Motor Vehicle Department, I see nothing to interfere with it.

Writ Petition fails and is dismissed.

(ANTONY DOMINIC) JUDGE vi/