

(2010) 12 KL CK 0151

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 23049 of 2010-E

Vinod Kumar

APPELLANT

Vs

District Collector, Additional District Magistrate and
Thahasildar

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002 —
Rule 27(2)

Citation : (2010) 12 KL CK 0151

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

**Advocate : Rinny Stephen Chamaparampil, for the Appellant; Government
Pleader, for the Respondent**

Judgement

T.R. Ramachandran Nair, J.—The challenge is against Ext.P7 order passed by the Additional District Magistrate who was in charge of the

District Collector under the Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001.

2. The learned Counsel for the Petitioner raised three contentions. Firstly it is pointed out that the District Collector has not passed any order but

the Additional District Magistrate who was in charge has signed the order. Secondly it is pointed out that the Petitioner was not heard before

passing the order. It is also submitted that the mahazar was not prepared in tune with Rule 27(2) of the Kerala Protection of River Banks and

Regulation of Removal of Sand Rules, 2002 and no copy of such mahazar has been served to the Petitioner. Therefore, the entire seizure and

consequent confiscation are invalid.

3. The Petitioner's case is that after the vehicle was seized on 24/12/2009, the Petitioner moved an application for getting the vehicle released as

per Ext.P4 on 18/01/2010. The first Respondent passed an order to return the vehicle to the Petitioner on condition of payment of fine of Rs.

25,000/-. Accordingly, the amount was paid and the vehicle was released. According to him, he was on the bona fide belief that the said order

was final. But, he was served with Ext.P7 order whereby he was directed to pay an amount of Rs. 1,60,000/-.

4. In the counter affidavit filed by the second Respondent it is pointed out that the mahazar has been prepared by the Sub Inspector of Police as

per Ext.R2 (a) and, the Petitioner's allegation that he was not given the copy of the mahazar is not denied. Apart from that there is no denial of the

contention that the Petitioner was not heard before passing the order. The confiscation of the vehicle will result in serious consequences to the

parties concerned. Such an order can be passed only after affording an opportunity of hearing and in compliance with the principles of natural

justice. Petitioner has to produce materials in support of his pleadings to prove that the entire seizure and consequent confiscation of the vehicle

cannot be supported as per law.

5. In that view of the matter, Ext.P7 order is quashed. Therefore, the competent authority in terms of the provisions of the Act will take a decision

after hearing the Petitioner and affording all opportunity to adduce any additional evidences also. The writ petition is disposed of as above. No

costs.