



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 30811 OF 2023

PETITIONER:

RAPHY P.J
AGED 53 YEARS
S/O.JACOB P.A, PALIEKKARA HOUSE, NEAR OLLUR RAILWAY
STATION, ANAKALLU, AVINISSERY P.O, THRISSUR, PIN -
680306
BY ADV HAARIS MOOSA

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY SECRETARY, MINISTRY OF FINANCE, NORTH
BLOCK, NEW DELHI, PIN - 110001
- 2 COMMISSIONER OF CUSTOMS (PREVENTIVE)
5TH FLOOR, CATHOLIC CENTRE, BROADWAY, KOCHI, PIN -
682031
- 3 SUPERINTENDENT OF CUSTOMS
CUSTOMS PREVENTIVE COMMISSIONERATE COCHIN, 5TH FLOOR,
CATHOLIC CENTRE, BROADWAY, KOCHI, PIN - 682031
BY ADV RAJESH. K.RAJU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).22333/2023, 22505/2023 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) No.30811/2023 & connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 22333 OF 2023

PETITIONER:

JOY C.D.,
AGED 51 YEARS
S/O DEVASSY, 41, CHIRAYINMEL, VALLACHIRAGRAMA
PANCHAYATH, ARATTUPUZHA, THRISSUR., PIN - 680562
BY ADVS.
M.P.SHAMEEM AHAMED
AKHIL PHILIP MANITHOTTIYIL

RESPONDENTS:

- 1 THE COMMISSIONER OF CUSTOMS (PREVENTIVE UNIT),
OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE
UNIT), 5TH FLOOR, CATHOLIC CENTRE, BROADWAY, COCHIN.,
PIN - 682031
- 2 THE SUPERINTENDENT OF CUSTOMS (PREVENTIVE UNIT)
PALAKKAD,
QMF4+XCG, METTUPPALAYAM ST, PARAKKUNNAM, VIDYUT
NAGAR, PALAKKAD, KERALA 678001., PIN - 678001
- 3 UNION OF INDIA,
MINISTRY OF COMMERCE AND INDUSTRY, UDYOGBHAVAN, NEW
DELHI 110107. REPRESENTED BY ITS PRINCIPAL
SECRETARY., PIN - 110107
BY ADV T.K.RAJESHKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).30811/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) No.30811/2023 & connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 22505 OF 2023

PETITIONER:

VIJAYAN N.,
AGED 39 YEARS
S/O NARAYANAN, 304, KAVATH VEEDU, NELLIYANKUNNAM,
ALATHUR GRAMA PANCHAYATH, PALAKKAD., PIN - 678541
BY ADVS.
M.P.SHAMEEM AHAMED
AKHIL PHILIP MANITHOTTIYIL

RESPONDENTS:

- 1 THE COMMISSIONER OF CUSTOMS (PREVENTIVE UNIT) ,
OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE),
5TH FLOOR, CATHOLIC CENTRE, BROADWAY, COCHIN., PIN -
682031
- 2 THE SUPERINTENDENT OF CUSTOMS (PREVENTIVE UNIT)
PALAKKAD,
QMF4+XCG, METTUPPALAYAM ST, PARAKKUNNAM, VIDYUT
NAGAR, PALAKKAD, KERALA -678001., PIN - 678001
- 3 UNION OF INDIA,
MINISTRY OF COMMERCE AND INDUSTRY, UDYOGBHAVAN, NEW
DELHI REPRESENTED BY ITS PRINCIPAL SECRETARY, PIN -
110 107., PIN - 110107
BY ADVS.
P.B.AJOY
PRAVEEN K.V

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).30811/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 24978 OF 2023

PETITIONERS:

- 1 JOBY ROY
 AGED 29 YEARS
 S/O M.C ROY, POOYAMKUTTY, KUTTAMPUZHA, ERNAKULAM-
 686681 KERALA., PIN - 686681
- 2 RAJEESH
 AGED 27 YEARS
 S/O AYYAPPAN, PUTHANPURAKKAL, ANJUKUNNU, PANAMARAM
 P.O, WAYANNAD 670721, PIN - 670721
- 3 M/S CHENNAI GOLD HOUSE
 JAIN PLAZA, SHOP NO.20, G-FLOOR, NO.63, THYAGARAYA
 ROAD, PONDY BAZAR, T-NAGAR, CHENNAI 600017
 (REPRESENTED BY ITS PROPRIETOR, MR. PHIJO JOSE), PIN
 - 600017
 BY ADVS.
 M.P.SHAMEEM AHAMED
 AKHIL PHILIP MANITHOTTIYIL

RESPONDENTS:

- 1 THE COMMISSIONER OF CUSTOMS (PREVENTIVE UNIT)
 OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE),
 5TH FLOOR, CATHOLIC CENTRE, BORADWAY, COCHIN 682031,
 PIN - 682031
- 2 THE SUPERINTENDENT OF CUSTOMS (PREVENTIVE UNIT),
 PALAKKAD
 QMF4+XCG, METTUPPALAYAM ST, PARAKKUNNAM, VIDYUT
 NAGAR, PALAKKAD, KERALA 678001, PIN - 678001
- 3 UNION OF INDIA
 MINISTRY OF COMMERCE AND INDUSTRY, UDYOGBHAVAN, NEW
 DELHI 110107, REPRESENTED BY ITS PRINCIPAL SECRETARY,
 PIN - 110107
 BY ADV THANUJA ROSHAN GEORGE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).30811/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) No.30811/2023 & connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 25252 OF 2023

PETITIONERS:

- 1 SHAJU A.K,
AGED 53 YEARS
S/O KOCHAPPAN, 234, ALOOKKARAN, KALA NAGAR, KATTOOR
(PO), THRISSUR - 680702 KERALA.
- 2 JERIN JOSEPH
AGED 47 YEARS
S/O JOSEPH, PROP: BEST GOLD, THEKKINIYATH HOUSE,
PERINCHERI (PO), THRISSUR, PIN - 680306
BY ADVS.
M.P.SHAMEEM AHAMED
AKHIL PHILIP MANITHOTTIYIL

RESPONDENTS:

- 1 COMMISSIONER OF CUSTOMS (PREVENTIVE UNIT)
OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE),
5TH FLOOR, CATHOLIC CENTRE, BROADWAY, COCHIN, PIN -
682031
- 2 THE SUPERINTENDENT OF CUSTOMS (PREVENTIVE UNIT),
PALAKKAD
QMF4+XCG, METTUPPALAYAM ST, PARAKKUNNAM, VIDYUT
NAGAR, PALAKKAD, KERALA, PIN - 678001
- 3 UNION OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY, UDYOGBHAVAN, NEW
DELHI 110107, REPRESENTED BY ITS PRINCIPAL SECRETARY
BY ADVS.
M.S.AMAL DHARSAN
K.MALINI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).30811/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



WP(C) No.30811/2023 & connected cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 7TH DAY OF DECEMBER 2023 / 16TH AGRAHAYANA, 1945

WP(C) NO. 31224 OF 2023

PETITIONER:

T.G MOHANAN
AGED 59 YEARS
PROP. M/S MOHAM GOLD WORKS, RESIDING AT
THOTTIPPARAMBIL HOUSE, VALLACHIRA P O , TRISHUR, PIN -
680562
BY ADV HAARIS MOOSA

RESPONDENTS:

- 1 UNION OF INDIA
MINISTRY OF FINANCE, REPRESENTED BY SECRETARY, NORTH
BLOCK, NEW DELHI, PIN - 110001
- 2 COMMISSIONER OF CUSTOMS (PREVENTIVE)
5TH FLOOR, CATHOLIC CENTRE, BROADWAY, KOCHI, PIN -
682031
- 3 SUPERINTENDENT OF CUSTOMS
CUSTOMS PREVENTIVE COMMISSIONERATE COCHIN 5TH FLOOR,
CATHOLIC CENTRE, BROADWAY, KOCHI, PIN - 682031
BY ADV RAJESH. K.RAJU

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
07.12.2023, ALONG WITH WP(C).30811/2023 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



JUDGMENT

Dated this the 7th day of December, 2023

The present writ petitions have been filed for release of gold and gold items after orders in original have been rendered in favour of the petitioners. This Court in some of the writ petitions, granted the following interim order:

"1. The writ petition has been filed by the petitioner for a writ of mandamus to command the 2nd respondent to release the gold seized from them in pursuance of the Order dated 07.06.2023 passed by the Joint Commissioner in adjudication proceedings.

2. The learned Counsel for the respondent Authority submits that the orders passed by the Joint Commissioner in adjudicatory proceedings have not been accepted, and the Department is filing appeals against the said orders along with the application for a stay of the orders passed by the Joint Commissioner. The Department is, therefore, not releasing the seized gold on the ground that the adjudicatory orders have not been accepted, and the Department is filing the appeals along with the stay applications.



3. The learned Counsel for the petitioner submits that the Supreme Court and various High Courts have repeatedly held that mere filing of the appeals against the adjudicatory order could not entitle the Department to not release the seized goods.

4. I have considered the submissions. Admittedly, the time prescribed for filing the appeals is not yet over. The learned Counsel for the Customs Authority submits that the appeals are being filed shortly against the adjudicatory orders along with the application for interim relief by the Department.

5. Considering the aforesaid submission, it is directed that if the Department does not get the interim order in the appeals filed against the adjudicatory order within a period of three weeks from today, the seized gold of the petitioners shall be released on taking bonds and securities for the said purpose from the petitioners without insisting upon furnishing Bank Guarantees."

2. It is submitted that in pursuance of the interim orders, petitioners have executed the bond and furnished securities other than bank guarantee for release of the gold to the satisfaction of the competent customs authority and gold/gold items are



in the process of being released in favour of the petitioners.

Considering the aforesaid, and taking into consideration the interim orders, these writ petitions are disposed of and it is provided that the gold and gold items seized from the petitioners are to be released after the orders-in-original have been passed in favour of the petitioners, on petitioners furnishing securities other than bank guarantees and execution of the bonds to the satisfaction of proper customs authority. However, the said release shall be subject to the outcome of any appeal filed by the Department against the orders in original.

Sd/-

DINESH KUMAR SINGH

JUDGE



WP(C) No.30811/2023 & connected cases

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APPENDIX OF WP(C) 30811/2023

PETITIONER EXHIBITS

- | | |
|------------|---|
| Exhibit P1 | A TRUE COPY OF THE ADJUDICATION ORDER IN ORDER (ORIGINAL) NO.53/2023-24 (PREV) DATED 16.06.2023 |
| Exhibit P2 | A TRUE COPY OF THE LETTER DATED 21.08.2023 WRITTEN BY THE PETITIONER TO THE COMMISSIONER OF CUSTOMS, THE 2ND RESPONDENT |
| Exhibit P3 | A TRUE COPY OF THE E-MAIL DATED 21.08.2023 WRITTEN BY THE PETITIONER THROUGH HIS LAWYER TO THE HON'BLE CHAIRMAN OF THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, NEW DELHI |
| Exhibit P4 | TRUE COPY OF THE ORDER DATED 3RD FEBRUARY 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |
| Exhibit P5 | TRUE COPY OF THE ORDER DATED 1ST MARCH 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |
| Exhibit P6 | TRUE COPY OF THE ORDER DATED 10TH APRIL 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |



WP(C) No.30811/2023 & connected cases

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APPENDIX OF WP(C) 22333/2023

PETITIONER EXHIBITS

- | | |
|------------|---|
| Exhibit P1 | COPY OF THE SEIZURE MEMO DATED 17.11.2020
ISSUED BY THE 2ND RESPONDENT |
| Exhibit P2 | COPY OF THE SEIZURE MAHAZAR DATED
17.11.2020 PREPARED BY THE SUPERINTENDANT
OF CUSTOMS, CUSTOMS PREVENTIVE UNIT &
NARCOTICS UNIT, PALAKKAD |
| Exhibit3 | COPY OF THE ORDER-IN- ORIGINAL NO.
135/2022-23 CUSTOMS (PEV) DATED 30.12.2022
PASSED BY JOINT COMMISSIONER, CUSTOMS
PREVENTIVE COMMISSIONERATE, COCHIN |
| Exhibit P4 | COPY OF THE LETTER DATED 24.04.2023 FILED
BY THE PETITIONER'S CONSULTANT TO THE 1ST
RESPONDENT |
| Exhibit P5 | COPY OF THE ORDER DATED 10.03.2023 IN WP(C)
NO. 2529 / 2023 |



WP(C) No.30811/2023 & connected cases

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APPENDIX OF WP(C) 22505/2023

PETITIONER EXHIBITS

Exhibit P1 COPY OF THE SEIZURE MEMO DATED 17.11.2020
ISSUED BY THE 2ND RESPONDENT

Exhibit 2 COPY OF THE SEIZURE MAHAZAR DATED
17.11.2020 PREPARED BY THE SUPERINTENDANT
OF CUSTOMS, CUSTOMS PREVENTIVE UNIT &
NARCOTICS UNIT, PALAKKAD

Exhibit P3 COPY OF THE ORDER-IN- ORIGINAL NO.
142/2022-23 CUSTOMS (PREV) DATED 30.12.2022
PASSED BY JOINT COMMISSIONER, CUSTOMS
PREVENTIVE COMMISSIONERATE, COCHIN

Exhibit P4 COPY OF THE LETTER DATED 24.04.2023 FILED
BY THE PETITIONER'S CONSULTANT TO THE 1ST
RESPONDENT

Exhibit P5 COPY OF THE ORDER DATED 10.03.2023 IN WP(C)
NO. 2529 / 2023

RESPONDENT ANNEXURES

Annexure R2(a) True copy of the letter 25/05/2023 issued
by the Office of the Commissioner (Appeals)

**APPENDIX OF WP(C) 24978/2023**

PETITIONER EXHIBITS

Exhibit P1	COPY OF THE SEIZURE MEMO DATED 15.03.2021 FOR THE SEIZURE OF 1500 GRAM OF GOLD FROM THE 1ST PETITIONER
Exhibit P2	COPY OF THE SEIZURE MAHAZAR DRAWN DATED 15.03.2021 IN CONNECTION WITH THE SEIZURE OF 1500 GRAM OF GOLD FROM THE 1ST PETITIONER
Exhibit P3	COPY OF THE ORDER-IN- ORIGINAL NO. 157/2022-23 AND OIO NO. 158/2022-23 DATED 10.03.2023 PASSED BY JOINT COMMISSIONER, CUSTOMS PREVENTIVE COMMISSIONERATE, COCHIN
Exhibit P4	COPY OF THE LETTER DATED 21.03.2023 FILED BY THE 1ST PETITIONER'S CONSULTANT TO THE 1ST RESPONDENT TO RELEASE THE GOLD BARS
Exhibit P5	COPY OF THE LETTER DATED 21.03.2023 FILED BY THE 2ND PETITIONER'S CONSULTANT TO THE 1ST RESPONDENT
Exhibit P6	COPY OF THE LETTER DATED 24.04.2023 FILED BY THE 1ST PETITIONER'S CONSULTANT TO THE 1ST RESPONDENT
Exhibit P7	COPY OF THE LETTER DATED 24.04.2023 FILED BY THE 2ND PETITIONER'S CONSULTANT TO THE 1ST RESPONDENT
Exhibit P8	COPY OF THE ORDER DATED 10.03.2023 IN WP(C) NO. 2529 / 2023



WP(C) No.30811/2023 & connected cases

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APPENDIX OF WP(C) 25252/2023

PETITIONER EXHIBITS

Exhibit P1	COPY OF THE SEIZURE MEMO DATED 21.01.2020 FOR THE SEIZURE OF 2511 GRAM OF GOLD FROM THE 1ST PETITIONER
Exhibit P2	COPY OF THE MAHAZAR DRAWN WITH THE SEIZURE OF 2511 GRAM OF GOLD FROM THE 1ST PETITIONER
Exhibit P3	COPY OF THE ORDER IN ORIGINAL NUMBER 143/2022-23 DATED 30.12.2022 PASSED BY JOINT COMMISSIONER, CUSTOMS PREVENTIVE COMMISSIONERATE, COCHIN
Exhibit P4	COPY OF THE LETTER DATED 13.02.2023 FILED BY THE 2ND PETITIONER CONSULTANT TO THE 1ST RESPONDENT TO RELEASE THE GOLD BARS SEIZED FROM THE 2ND PETITIONER
Exhibit P5	COPY OF THE ORDER DATED 10.03.2023 IN WP(C) NO. 2529 / 2023



WP(C) No.30811/2023 & connected cases

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APPENDIX OF WP(C) 31224/2023

PETITIONER EXHIBITS

- | | |
|------------|---|
| Exhibit-P1 | A TRUE COPY OF THE ADJUDICATION ORDER DATED 07.06.2023 IN ORDER (ORIGINAL) NO. 37/2023 - 24 CUSTOMS (PREV) |
| Exhibit-P2 | A TRUE COPY OF THE LETTER DATED 16.08.2023 WRITTEN BY THE PETITIONER TO THE COMMISSIONER OF CUSTOMS, THE 2ND RESPONDENT |
| Exhibit-P3 | A TRUE COPY OF THE E-MAIL DATED 16.08.2023 WRITTEN BY THE PETITIONER HEREIN TO THE HON'BLE CHAIRMAN OF THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS, NEW DELHI |
| Exhibit-P4 | TRUE COPY OF THE ORDER DATED 3RD FEBRUARY 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |
| Exhibit-P5 | TRUE COPY OF THE ORDER DATED 1ST MARCH 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |
| Exhibit-P6 | TRUE COPY OF THE ORDER DATED 10TH APRIL 2023 IN WP(C) NO. 2529 OF 2023 BY THE HON'BLE HIGH COURT OF KERALA |