

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM
&
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR**

TUESDAY, THE 12TH DAY OF MAY 2015/22ND VAISAKHA, 1937

WA.No. 933 of 2015 ()

(AGAINST THE JUDGMENT IN WP(C).NO. 11005/2015 DATED 10-04-2015)

APPELLANT/PETITIONER:

**KURIACHAN M.M., AGED 42 YEARS,S/O.MATHEW,
MADATHUMPADY HOUSE, NORTH FORT GATE,
TRIPUNITHURA -682 301, ERNAKULAM DISTRICT.**

**BY ADVS.SMT.V.J.RUBY
SMT.V.K.REEBA**

RESPONDENTS:

- 1. SUB INSPECTOR OF POLICE,
MARADU POLICE STATION, ERNAKULAM-682 001**
- 2. THE DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, ERNAKULAM- 682 030.**
- 3. THE REVENUE DIVISIONAL OFFICER (RDO),
FORTKOCHI, ERNAKULAM- 682 001.**
- 4. SECRETARY, MARADU MUNICIPALITY,
MARADU, ERNAKULAM- 682 304.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.RANJITH
R4 BY ADV. SRI.T.R.RAJAN SC,MARADU MUNICIPALITY**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 12-05-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

**C.K. ABDUL REHIM, J.
&
P.B. SURESH KUMAR, J.**

W.A No. 933 OF 2015

DATED THIS THE 12th DAY OF MAY, 2015

J U D G M E N T

Abdul Rehim, J:

The petitioner in the writ petition is the appellant herein. The writ petition was filed seeking direction to the 2nd respondent to complete the adjudication in connection with confiscation of vehicle bearing registration No.KL 40/F-1336, which was seized by the 1st respondent on the allegation of contravention of the Kerala Conservation of Paddy Land and Wet Land Act, 2008. Inter alia the appellant/petitioner sought release of the vehicle under interim custody, till finalisation of the adjudication.

2. Through the impugned judgment the learned Single Judge had directed the 2nd respondent to consider the claim of the petitioner to grant interim custody of the vehicle, within 2 weeks subject to satisfaction of security either in the form of immovable property or Bank Guarantee

reckoning 1.5 times of the value of the vehicle. It was also directed that the adjudication proceedings should be finalised within 6 weeks thereafter.

3. The judgment is assailed mainly aggrieved by the incorporation of the condition for furnishing security 1.5 times of the value of the vehicle. Various contentions are raised disputing the allegation regarding contravention of the Act. It is stated that the earth was carried in the vehicle at the relevant time only for the purpose of construction activities which was permitted by virtue of Ext.P3 building permit. However, the question whether there was any contravention of the Act and as to whether the vehicle in question is liable to be confiscated, are matters which need to be decided by the 2nd respondent after conducting proper adjudication considering all rival contentions. It is noticed that the appellant/petitioner is not the registered owner of the vehicle in question. According to him the vehicle was hired on contract basis and it was used for execution of work undertaken by the appellant.

4. Heard; Government appearing on behalf of the respondents. It is pointed out that under Section 20 of the Act the District Collector is empowered to order confiscation of the vehicles seized under Section 12 or under Section 19 of the Act. It is also pointed out that the proviso to Section 20 (1) enables release of the vehicle on payment of a sum equal to one and a half times of the value of the seized articles, in lieu of its confiscation. It is noticed that, under sub section (2) of Section 20 confiscation can be ordered only after giving opportunity of personal hearing to the owner of the vehicle. We are of the considered opinion that interest of justice can be achieved by directing the 2nd respondent to expedite the proceedings for confiscation, after affording proper opportunity to the owner of the vehicle as well as to the appellant. Learned counsel for the petitioner submitted that as the condition incorporated for release of the vehicle on interim custody is highly onerous, an early disposal of the matter may be directed by completing the procedure of adjudication.

5. Under the above mentioned circumstances, the writ appeal is disposed of modifying the impugned judgment to the extent of directing the 2nd respondent to complete the adjudication under Section 20 of the Act on an early basis, after issuing notice and after affording opportunity to the petitioner as well as to the registered owner of the vehicle. The adjudication shall be completed, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

C.K. ABDUL REHIM, JUDGE.

Sd/-

P.B. SURESH KUMAR, JUDGE.

AMG

True copy

P.A. to Judge