

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WA.No. 1830 of 2015 ()

WP(C) 22067/2015 of THIS HONOURABLE COURT

APPELLANT/PETITIONER :

**BEENA RANI S.R., AGED 44 YEARS,
W/O. MURUGAN K, V.P. 4/753, PONNUS,
ADITHYA NAGAR, NETTAYAM P.O.,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/RESPONDENTS :

- 1. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM-695001**
- 2. SUB INSPECTOR OF POLICE,
MANNANTHALA POLICE STATION
THIRUVANANTHAPURAM - 695 041.**

R1 & R2 BY SPL. GOVERNMENT PLEADER SMT. GIRIJA GOPAL

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.1830 of 2015

Dated this the 18th day of August 2015

J U D G M E N T

Shaffique, J

Appellant/writ petitioner's vehicle bearing Reg.No.KL-01 BP-7669 was seized as per Ext.P1 mahazer. The writ petition was filed seeking for a direction to the District Collector to grant interim custody of the said vehicle on the ground that the vehicle was involved in violation of the Kerala Minor Mineral Concession Rules, 2015, which is compoundable under Rule 111.

2. The learned Single Judge, while considering the matter, observed that as per Ext.P2 mahazer, statement is recorded which indicates that the driver, when questioned regarding the transportation of ordinary earth, informed the officer concerned that it was intended for filling up of wet land. On that basis, the learned Single Judge observed that the District Collector has to consider the matter under Section 20 of the Kerala Conservation of Paddy land and Wet Land Act, 2008 (hereinafter referred as the '2008 Act'). Accordingly, a direction was issued to the 2nd

respondent Sub Inspector of Police to place the records before the District Collector and a further direction was issued to the District Collector to consider the matter and dispose of the same finally within a period of three weeks from the date of transmission of the papers and that the petitioner shall be entitled to seek for interim custody of the vehicle before the District Collector.

3. The learned counsel for the appellant submits that there is no material to indicate that the vehicle was involved in any offence under the 2008 Act. According to him, there is only a vague statement in the matter whereas there is a finding by the learned Single Judge that the vehicle was involved in transportation of red earth for filling up of wet land.

4. Having regard to the aforesaid contentions, we are of the view that it shall always be open for the appellant, while the matter is placed before the District Collector, to contend as to whether the vehicle was actually involved in filling up of red earth in a wet land in violation of the provisions of the 2008 Act. It is made clear that any contention as available under law can be taken by the appellant and it is for the 1st respondent to consider whether there is any violation of the provisions of 2008 Act.

5. Under such circumstances, we do not think that any modification is required to the judgment of the learned Single Judge. We only clarify that it shall be open for the appellant to take all contentions as available under law before the District Collector, who shall pass appropriate orders within a period of two weeks from the date of receipt of a copy of this judgment.

This writ appeal is disposed of as above.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

