

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 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WA.No. 1964 of 2015

AGAINST THE JUDGMENT IN W.P.(C).NO.8703/2015, DATED 19-03-2015

APPELLANT(S)/PETITIONERS :

- 1. RATHINASWAMY,
S/O.MAYILSWAMY, 527(9/328), THANNEERPANTHAL,
ELAMBULASSERY, OTTAPALAM TALUK,
PALAKKAD DISTRICT, PIN- 678 595.**
- 2. JAYAPRAKASH,
S/O.THANKAN, THADIKKAMARIL HOUSE, POTTASSERY P.O.,
MANNARKKAD TALUK, PALAKKAD DISTRICT.**

**BY ADVS.SRI.I.DINESH MENON
SRI.L.RAJESH NARAYAN**

RESPONDENT(S)/RESPONDENTS:

- 1. THE DISTRICT COLLECTOR,
PALAKKAD - 678 001.**
- 2. THE SUB INSPECTOR OF POLICE,
MANNARKKAD - 678 582.**
- 3. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF AGRICULTURE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 4. STATE OF KERALA
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

BY SR.GOVERNMENT PLEADER SRI.P.IDAVIS

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

*** * * * ***

W.A.No.1964 of 2015

Dated this the 22nd day of September 2015

J U D G M E N T

Shaffique, J

The appellants have approached this Court challenging seizure of their vehicles bearing Reg.No.KL-14 G-7784 and KL-09 N-3658. Vehicles were seized by the 2nd respondent alleging commission of offence under the Conservation of Paddy Land and Wet Land Act, 2008.

2. The learned Single Judge, after taking into consideration the contentions urged on behalf of the petitioners, disposed of the writ petition directing the District Collector to consider whether interim custody of the vehicles could be given to the petitioners on the petitioners submitting bank guarantee for 1 ½ times value of the vehicles. It was further directed that the entire matter has to be disposed of within a period of two months after taking into consideration the entries made in the data bank register as well as in the relevant records.

3. While impugning the aforesaid judgment, the learned counsel for the appellants submits that the photographs produced in the case as Annexures would clearly indicate that the property was not a paddy land or wet land and therefore the very initiation of proceedings was absolutely baseless. It is pointed out that the property was lying as garden land and therefore the District Collector ought to have verified the aforesaid factual aspects before proceeding further. It is pointed out that the photographs produced as Annexure A had not been produced before the learned Single Judge during the relevant time and therefore, after taking into consideration the photographs produced, direction may be given to the District Collector to release the vehicles.

4. Having heard the learned counsel for the appellants as well as the learned Government Pleader, we do not think that any modification is required to the judgment of the learned Single Judge. The learned Single Judge had only directed the District Collector to consider whether interim custody of the vehicles could be given to the petitioners. The direction to collect bank guarantee for 1 ½ times the value of the vehicles is based on the compounding fee which could be levied in lieu of confiscation.

Since appellants have not availed such a remedy, we only direct the District Collector to dispose of the matter, as early as possible and taking into consideration all relevant facts including the photographs produced by the petitioner.

With the above observation, this writ appeal is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr

