

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

WP(C).No. 262 of 2015 (G)

PETITIONER(S):

**HUSSAIN L.,
S/O.LATHEEF, VALUPARAMBIL HOUSE, KOMALLOOR P.O.,
CHARUMOODU, MAVELIKKARA, ALAPPUZHA DISTRICT.**

BY ADV. SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
ALAPPUZHA - 686 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, CHENGANNOOR - 689 108.**
- 3. THE VILLAGE OFFICER,
VILLAGE OFFICE, PULIYOOR, CHENGANNOOR TALUK - 689 108.**
- 4. SUB INSPECTOR OF POLICE,
CHENGANNOOR POLICE STATION - 689 108.**
- 5. SINDHU,
W/O.RAJESH, ANNAPOORNA (MANI BHAVAN), LAKASSERY MURI,
CHENGANNOOR, ALAPUZA DISTRICT - 686 306.**

R1 TO R4 BY SENIOR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 262 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1: TRUE COPY OF THE RELEVANT PAGE OF THE REGISTRATION CERTIFICATE.

**EXT.P2: TRUE COPY OF THE PERMIT DATED 19.12.2014 OF THE MINING AND
GEOLOGY DEPARTMENT.**

**EXT.P3: TRUE COPY OF THE DATA BANK ISSUED UNDER THE RIGHT TO
INFORMATION ACT.**

**EXT.P4: TRUE COPY OF THE SALE DEED NO.2579/2014 DATED 15.11.2014 IN FAVOUR
OF THE 5TH RESPONDENT.**

**EXT.P5: TRUE COPY OF THE MAHAZAR PREPARED BY THE 4TH RESPONDENT
DATED 22.12.2014.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.262 of 2015

Dated this the 13th day of January, 2015

JUDGMENT

Petitioner is the owner of a Tipper Lorry bearing No.KL-37-567, which was seized by the 4th respondent on 22.12.2014 as per Ext.P5 Mahazar for the alleged violation of the provisions of the Kerala Conservation of Paddy Land and Wet Land Act. The contents of Ext.P5 Mahazar shows that the petitioner's vehicle was deployed for the purpose of unloading ordinary earth in the concerned property in Re-Survey No.28/3 of Puliyoor Village, which according to the concerned respondent was a paddy land and hence that offence was made out under the said enactment, leading to further proceedings.

2. The case of the petitioner is that, the said property is not at all a paddy land as defined under Section 2(XII) or wet land under Section 2(XVIII) of the of Kerala Conservation of Paddy Land and Wet Land Act, 2008, in fact the said property is a residential plot, as clearly mentioned in the Fair Value Register, a

copy of which has been produced before this Court for perusal. Reference is also made to Ext.P3 issued by the concerned Village Officer, wherein the nature of the property has been shown as residential plot with N.H/PWD road access, having a fair value of Rs.40,000/- (Rupees Forty thousand only) per Are.

3. The learned Government Pleader submits on instructions that, the property has been included as a 'paddy land' in the 'Data Bank Register' and a copy of the said Register is also placed for consideration before this Court. On going through the materials on record, this Court finds that discrepancies/ inconsistencies do exist with regard to the nature of land as described in the relevant records maintained by the concerned respondent. If the property is actually a residential plot, attracting a 'fair value' as fixed by the competent authority under Section 28A of the Stamp Act, merely for the reason that the property has been wrongly included in the Data Bank Register (if it be so) it cannot make out an offence; with regard to which no opinion is expressed in the present case. The learned Government Pleader also points out that the 'fair value' of the

property, if at all it is a residential plot and situated on the side of N.H./PWD Road in the area, could not be Rs.40,000/- per Are and that, the fixation shows that it actually is a paddy land. The dispute can be resolved only by the competent authority under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 by way of appropriate proceedings.

Considering the nature and circumstances, this Court does not find it necessary to cause retention of the vehicle till such time. The interim custody of the vehicle shall be released to the petitioner forthwith, on surrendering the R.C. Book and on execution of a 'simple bond' and also on giving an undertaking to the effect that the vehicle will not be alienated and that the petitioner will not cause any action so as to diminish the value of the vehicle till finalisation of the proceedings. The proceedings as above shall be finalised by the 1st respondent, who is the competent authority under the aforesaid Act, in accordance with law, after giving an opportunity of hearing to the petitioner and the 5th respondent (who is stated as the owner of the vehicle), after calling for a report from the Agricultural Officer as to the

actual nature of the land, at the earliest, at any rate, within 'four weeks' from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 1st respondent, for further steps.

**P.R. RAMACHANDRA MENON,
JUDGE**

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