

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 786 of 2015 (W)

PETITIONER:

**HARSHAD, S/O.ABDUL AZEES,
AGED 22 YEARS, PARITHIKKAL PARAMBU,
WEST VENGOLA P.O, ARAKKAPADY VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.
(OWNER OF LORRIES BEARING REGISTRATION
NO. KL-63-7066 AND KL-40-B-5224)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE SUB INSPECTOR OF POLICE,
MARADU POLICE STATION,
ERNAKULAM DISTRICT -682 305.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT - 682 030.**
- 3. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, ERNAKULAM, KOCHI-682 001.**
- 4. THE VILLAGE OFFICER, MARADU VILLAGE,
ERNAKULAM DISTRICT, PIN-682 027.**

BY GOVERNMENT PLEADER SRI.M.MOHAMMED SHAFI

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 - TRUE COPY OF THE MAHAZAR IN CONNECTION WITH THE SEIZURE OF THE VEHICLE OF THE PETITIONER DATED 2-12-2014 PREPARED BY THE FIRST RESPONDENT.
- EXT.P2 - TRUE COPY OF THE REPORT DATED 11-12-2014 SUBMITTED BY THE VILLAGE OFFICER MARADU VILLAGE BEFORE THE REVENUE DIVISIONAL OFFICER FORTKOCHI.
- EXT.P3 - TRUE COPY OF THE RECENT DATA BANK OF MARADU VILLAGE IN WHERE THE SAID PROPERTY HAS BEEN MENTIONED AS CONVERTED LAND AFTER 2008.
- EXT.P4 - TRUE COPY OF THE EARLIER DATA BANK OF THE MARADU VILLAGE WHERE THE PROPERTY OF THE PETITIONER HAS BEEN CONVERTED 7 YEARS BACK.
- EXT.P5 - TRUE PHOTOGRAPHS OF THE PROPERTY IN WHERE PETITIONER ALLEGEDLY UNLOADED EARTH.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 786 of 2015

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner is the owner of the vehicles bearing Nos. **KL-63-7066** and **KL-40-B 5224** which were seized by the 1st respondent on 2.12.2014 alleging offence under the Act 28 of 2008. Ext.P1 is the Mahazar prepared in this regard. The case of the petitioner is that, the property concerned is not a 'paddy land' or 'wet land' as per the definition under Sections 2(xii) and 2(xviii) of the Act 28 of 2008. Reliance is sought to be placed on Ext.P2 report dated 11.12.2014 filed by the Village Officer in support of the version of the petitioner. Ext.P3 is the Data Bank Register wherein it is mentioned that the property has been converted more than 'seven' years ago. However, there is a subsequent turn of events in so far as another Data Bank Register was issued as per Ext.P4 wherein it is stated that the conversion of the concerned property was effected after the commencement of the Act 28 of 2008. The petitioner has produced the photographs of the property, showing the nature, lie and location adding that, a building is also situated in the property, provided with electricity connection.

2. Heard the learned Government Pleader as well, who submits that Ext.P4 has been prepared after meticulous analysis of the facts and figures and after site inspection. It is asserted that the property is a 'paddy land' and offence under the relevant provisions of the Act 28 of 2008 is made out.

3. This Court does not propose to go into the merits of the case. The competent authority to deal with the matter is the 2nd respondent and the petitioner is relegated to approach the 2nd respondent. If any request is made by the petitioner for the interim custody of the above mentioned vehicles, the same shall be considered passing appropriate orders within 'two weeks'. The proceedings shall be shall be finalized at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

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