

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 1112 of 2015 (L)

PETITIONERS :

1. SHAMEER, AGED 30 YEARS,
S/O.MUHAMMED, KATTILPEEDIKA, KODUNTHIRAPPILLY PO.,
PIRAYIRI VILLAGE, PALAKKAD DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO.KL-8 AC-4366)
2. MURALIKRISHNAN, AGED 40 YEARS,
S/O.KRISHNANKUTTY, NALUPRAM HOUSE, CHERUKULAM PO.,
KOTTAYI VILLAGE, PALAKKAD DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO.KL-8-Z-5560)
3. GOPI RENIL, AGED 40 YEARS, S/O.VASU,
KOOTTUPURAKKAL HOUSE, MANAKKARA P.O.
MANKARA VILLAGE, PALAKKAD DISTRICT
(OWNER OF LORRY BEARING REGISTRATION NO.KL-17-D-8984)
4. SHAFEEK, S/O.KOTTAYI VILLAGE, AGED 32 YEARS,
PALAKKAD DISTRICT (OWNER OF LORRY
BEARING REGISTRATION NO.KL-13-N-4353)

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

1. THE SUB INSPECTOR OF POLICE, KOTTAYI POLICE STATION
KOTTAYI POLICE STATION, PALAKKAD DISTRICT-678572
2. THE DISTRICT COLLECTOR,
PALAKKAD DISTRICT-678572

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** TRUE COPY OF THE REPORT DATED 26.12.2014 SUBMITTED BY THE FIRST RESPONDENT BEFORE THE REVENUE DIVISIONAL OFFICER, PALAKKAD.
- EXHIBIT P2:** TRUE COPY OF THE BUILDING PERMIT DATED 23.04.2014 ISSUED BY THE SECRETARY, KOTTAYI GRAMA PANCHAYATH.
- EXHIBIT P3:** TRUE COPY OF THE ORDER NO.A7/1565/14 DATED 05.03.2014 ISSUED BY THE SECRETARY CONVENOR, KOTTAYI GRAMA PANCHAYATH AFTER CONDUCTING A SITE INSPECTION BY THE LEVEL MONITORING COMMITTEE IN THAT ARE AND AFTER DECISION OF THE SAID COMMITTEE.
- EXHIBIT P4:** TRUE PHOTOGRAPHS OF THE ALLEGED LAND.
- EXHIBIT P5:** TRUE COPY OF THE ORDER DATED 16.07.2014 ISSUED BY THE DISTRICT ANIMAL WELFARE OFFICER, PALAKKAD.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON J.

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Dated, this the 28th day of January, 2015

JUDGMENT

The petitioners are the owners of the vehicles bearing Nos. **KL 8 AC 4366, KL 8 Z 5560, KL 17 D 8984** and **KL 13 N 4353** respectively. The grievance is against the seizure of the said vehicles on the allegation that the said vehicles were deployed for conversion of paddy land. The case of the petitioners is that the vehicles of the petitioners were taken on rent to transport ordinary earth to be filled in the concerned property, where permission was granted by the competent authority to put up a residential building. The property concerned herein belongs to one Mr. Balakrishnan and the same is situated in survey No. 54/6 of Kottayi I village of Alathur taluk in Palakkad District. With intent to construct a residential building therein, aforesaid Balakrishnan approached the local authority, who issued Ext. P2 building permit. It is also pointed out that the property was lying as a reclaimed land, having effected such reclamation about one decade back and the concerned committee

constituted in terms of the Circular dated 31.07.2008 issued by the Local Self Government, consisting Secretary of the Grama Panchayath, Agricultural Officer, Village Officer and Assistant Engineer, had conducted spot inspection and permission was granted to effect construction, subject to some conditions as stipulated in Ext. P3. It was on the strength of the above proceedings, that the property was sought to be levelled by depositing some ordinary earth, which exercise was pursued by using the vehicles belonging to the petitioners. This was not an objectionable activity and as such, seizure effected by the first respondent is per se wrong and illegal in all respects, submits the learned counsel for the petitioners.

2. The learned Government Pleader, with reference to the statement filed, points out that the property concerned is actually a 'paddy land' and stands included in the 'data bank register', a copy of which is produced as Annexure R1(a). It is stated that by virtue of the Section 14 of the Kerala Paddy land and Wet land Act, no building permit could have been issued by the local authority. But this Court finds that the building permit has not issued by the local authority of its own, but on the strength of Ext. P3 proceedings,

which in fact is pursuant to the inspection conducted by the committee constituted as mentioned above. That apart, the Secretary to the Local Self Government Authority has conducted inspection, which is evident from Ext. P3. In any view of the matter, the pending proceedings have to be finalized by the competent authority under Act 28 of 2008, which is none other than the second respondent.

3. In the said circumstances, the second respondent is directed to finalize the proceedings in accordance with law, after giving notice to all concerned, at the earliest, at any rate, within three months from the date of receipt of a copy of this judgment. In view of the fact that documents produced prima facie support the case of the petitioner, there will be a direction to the second respondent to give interim custody of the vehicles to the petitioners forthwith, on executing a 'simple bond' and on giving an undertaking to produce the vehicles as and when called for and that the vehicles will not be alienated till the proceedings are finalized. The petitioners are also required to surrender the R C book of the vehicles concerned for the time being, till the proceedings are finalized by the second respondent. It is made

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clear that no opinion is expressed with regard to the merits of the case, projected from either side.

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

The Writ Petition is disposed of.

Sd/-

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

kmd