

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 1352 of 2015 (T)

PETITIONER(S) :

**RAVI.S, AGED 41 YEARS,
S/O.SHANMUGHAN, KUNNUPARAMBIL, MULAPALLUR P.O.,
VANDAZHI VILLAGE, ALATHUR TALUK,
PALAKKAD DISTRICT
(OWNER OF AN EXCAVATOR JCB BEARING REGISTRATION
NO.KL-49-D-1776).**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

- 1. THE VILLAGE OFFICER,
KARIMBA 1, PALAKKAD DIST-678 705.**
- 2. THE TAHASILDAR,
MANNARKAD TALUK, PALAKKAD DISTRICT-678 705.**
- 3. THE DISTRICT COLLECTOR,
PALAKKAD DISTRICT-678 671.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE MAHAZAR IN CONNECTION WITH THE SEIZURE OF THE VEHICLE OF THE PETITIONER DATED 24/11/2014 PREPARED BY THE FIRST RESPONDENT.
- P2: TRUE COPY OF THE REPORT DATED 25/11/2014 SUBMITTED BY THE FIRST RESPONDENT BEFORE THE THIRD RESPONDENT.
- P3: TRUE COPY OF THE LETTER DATED 23/05/2012 ISSUED BY THE LOCAL LEVEL MONITORING COMMITTEE.
- P4: TRUE COPY OF NO OBJECTION CERTIFICATE ISSUED BY THE KARIMBA GRAMA PANCHAYATH DATED 23/05/2012.
- P5: TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY KARIMBA GRAMA PANCHAYATH DATED 23/09/2014 AUTHORIZING MATHEW IYPPE LAL TO FILL EARTH IN HIS PROPERTY.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 1352 of 2015

Dated this the 21st day of January, 2015

JUDGMENT

The petitioner is the owner of the excavator JCB bearing No. **KL-49D-1776** which was seized by the 1st respondent on 24.11.2014 as per Ext.P1 mahazar alleging illegal/unauthorized conversion of paddy land. After effecting seizure, the 1st respondent has reported the matter to the 3rd respondent vide Ext.P2. According to the petitioner, the property 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 and that it is a reclaimed land, having effected the reclamation years ago. Reliance is sought to be placed on Ext.P3 letter dated 23.05.2012 issued by a Committee and Ext.P4 NOC dated 23.5.2012 issued by the concerned local authority, besides referring to Ext.P5, which is given by the Secretary of the concerned local authority authorising the person concerned to fill earth in his property. It was accordingly, that the activity was being pursued by the petitioner, by deploying the above mentioned vehicle and as

such, there cannot be any violation of the relevant provisions of law and that the seizure is per se wrong and illegal in all respects.

2. When the matter came up for consideration before this Court, some discrepancies were noted in so far as the vehicle was seized by the Village Officer who was a signatory to Ext.P3, being a member of the concerned Committee who recommended the limited extent of conversion for effecting construction of the building mentioned therein. It was accordingly that an order was passed on 20.01.2015 in the following terms:

“Learned Government Pleader to get instructions and to explain how the Village Officer would effect the seizure as per Ext.P1 when it was stated as a permitted activity, according to the petitioner, vide Ext.P3 to which the Village Officer was also a signatory.”

3. The learned Government Pleader submits on instructions that, the extract of Draft Data Bank register reveals that the property, though was included in the Draft Data Bank, has been described as 'reclaimed land', having effected reclamation before the year 2008. The law stands settled that, if the property was not a 'paddy land' or 'wet land' as on the date of commencement

of the Act 28 of 2008, provisions of the said Act are not applicable.

4. Since the petitioner has established a prima facie case, the vehicle mentioned above shall be released to the petitioner forthwith, by the 1st respondent, on executing a simple bond. The proceedings forming the subject matter of Exts. P1 and P2 shall be taken to a logical conclusion by passing appropriate orders by the 3rd respondent, finalizing the proceedings after affording an opportunity of hearing to the petitioner at the earliest, at any rate, within 'two 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. The writ petition is disposed of.

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