

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).No. 2714 of 2015 (L)

PETITIONER :

**SAITHALAVI, S/O.KOYUNNI, AGED 50 YEARS,
PUTHENVALAPPIL, PALLAM P.O.,
DESAMANGALAM VILLAGE, THALAPPILLY TALUK,
THRISSUR DISTRICT (OWNER OF LORRIES BEARING
REGISTRATION NO.KL-48-4095 AND KL-48-C-36)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE VILLAGE OFFICER,
CHERUTHURUTHY VILLAGE,
THRISSUR DISTRICT-680 001.**
- 2. THE SUB INSPECTOR OF POLICE,
CHERUTHURUTHY POLICE STATION,
THRISSUR DISTRICT-680 001.**
- 3. THE DISTRICT COLLECTOR,
THRISSUR DISTRICT-680 001.**
- 4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 2714 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 : TRUE COPY OF THE MAHASSAR DT. 1-1-15 PREPARED BY THE FIRST RESPONDENT.

EXHIBIT P2 : TRUE COPY OF THE RELEVANT PAGE OF FAIR VALUE REGISTER OF LAND REGISTER OF GOVERNMENT OF KERALA PUBLISHED IN OFFICIAL GAZETTE.

EXHIBIT P3 : TRUE COPY OF THE CERTIFICATE DT. 20-12-14 ISSUED BY THE MULLOORKARA-ATTOOR GROUP VILLAGE OFFICER.

EXHIBIT P4 : TRUE COPY OF THE G.O.NO.12/14/ENVT. DT. 15-11-14.

EXHIBIT P5 : TRUE COPY OF THE GO(MS)NO.20/14/ID DT. 12-2-14 ISSUED BY THE PRINCIPAL SECRETARY TO GOVERNMENT, INDUSTRIAL DEPARTMENT, GOVERNMENT OF KERALA.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 2714 of 2015

~~~~~

Dated, this the 5th day of February, 2015

JUDGMENT

The petitioner, who is stated as the owner of the lorries bearing Nos. **KL 48 4095** and **KL 48 C 36**, is aggrieved of seizure of the said vehicles by the first respondent as per Ext. P1 mahazar and in an arbitrary manner, absolutely without any rhyme or reason. The learned counsel for the petitioner points out that the said lorries were seized while carrying ordinary earth and were proceeding along the road.

2. The learned Government Pleader submits, on instructions and with reference to the materials on records, that the lorries belonging to the petitioner were seized while the ordinary earth carried and transported in the said vehicles was attempted to be unloaded in the paddy land, as evident from the second paragraph of Ext. P1. The learned Government Pleader submits that as per the entries in the 'data bank register' and that of the revenue records, the property concerned is described as a paddy land.

3. The learned counsel for the petitioner submits that as per Ext. P2 fair value register, the property has been shown as a 'garden land with road access' and as such it is not a 'paddy land' or 'wet land'. But as evident from Ext. P2, the said notification is dated 01.04.2010. The provisions of the Act 28 of 2008 could be attracted in respect of the lands which were remaining as paddy land or wet land 'as on the date of commencement of the Act' and as such, whether it was lying as a paddy land as on the date of commencement of the Act is the point to be considered.

3. After hearing both the sides, this Court finds it fit and proper to relegate the petitioner to approach the third respondent; to have fact adjudication. The relevant proceedings pursuant to Ext. P1 shall be forwarded by the concerned respondents to the 3rd respondent forthwith. The third respondent shall proceed with further steps to finalize the proceedings pursuant to Ext. P1, in accordance with law, at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment. If any application for interim custody of the vehicles is filed by the petitioner, it shall be considered and appropriate orders granting interim custody shall be passed, on condition that the

W.P.(C) No. 2714 of 2015

: 3 :

petitioner furnishes security in the form of 'bank guarantee' or immovable property for 1.5 times of the value of the vehicle and on giving an undertaking that the vehicles will not be alienated till the proceedings are finalized.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the 3rd respondent for further respondent.

Sd/-

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

kmd