

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 6801 of 2015 (A)

PETITIONER(S):

**K.K.UNNIKRISHNAN, AGED 44 YEARS,
S/O.KANDAN, KIZHAKKEMURI HOUSE, KOOVAPPALLY P.O.,
KANJIRAPPALLY, KOTTAYAM DISTRICT.**

**BY ADVS.SRI.P.G.SURESH,
SRI.G.SUDHEER (THURAVOOR),
SRI.RAJAN VISHNURAJ,
SRI. HARISH VASUDEVAN.**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM- 682 030.**
- 2. THE VILLAGE OFFICER,
AMBALLUR VILLAGE OFFICE, AMBALLUR,
ERNAKULAM DISTRICT- 682 315.**
- 3. THE SUB INSPECTOR OF POLICE,
MULANTHURUTHY, ERNAKULAM DISTRICT- 682 314.**
- 4. LATHEEF, AGED 63 YEARS, S/O.ABULLA,
CHETTIPPARAMBIL HOUSE, ST.ANTONYS ROAD,
P.O. ELAMAKKARA, ERNAKULAM DISTRICT- 682 026.**
- 5. K.M.NASSARUDDIN, AGED 58 YEARS, S/O.ABDUL MAJEED,
PALLIKKUNNIL HOUSE, BYEPASS ROAD,
NETTOOR DESOM, P.O. NETTOOR,
ERNAKULAM DISTRICT- 682 040.**

R1 TO R3 BY GOVT. PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

WP(C).No. 6801 of 2015 (A)

APPENDIX

PETITIONER'S EXHIBITS:-

**EXHIBIT P1. COPY OF RC PARTICULARS OF THE VEHICLE BEARING
REGISTRATION NO.KL-36-6663.**

EXHIBIT P2. COPY OF THE RELEVANT PAGE OF THE DATA BANK.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.6801 of 2015

Dated this the 10th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. Issue a writ of mandamus directing the 1st respondent or any other authorized officer to visit the properties of the Respondents No.4 and 5 and prepare the physical verification report of the land.

ii. Issue a writ of mandamus directing the 3rd Respondent to release the JCB bearing Registration No.KL-36-6663 to the Petitioner from the illegal custody of the officer concerned.

iii. Pass such any other order, relief or direction as this Hon'ble Court may deem fit in the interest of justice, equity and good conscience."

2. The learned counsel for the petitioner submits that, the petitioner is the registered owner of the vehicle bearing Registration **No.KL-36-6663**, which is a JCB/earthmover and making use of the same, the property concerned was being levelled and nothing more. It is also pointed out that the property concerned is not a 'paddy land' or 'wet land' as defined under Act 28 of 2008 and the same is not included in the Data Bank

Register, a copy of which has been produced as Ext.P2. The seizure is per se wrong and illegal in all respects and hence the challenge.

3. Heard the learned Government Pleader as well, who points out that, the seizure was effected under the bonafide impression that the activity, which was being pursued in the concerned low-lying land was a paddy land, but subsequently, on verification of several records it is revealed that, though the property stands described as a 'paddy land' in the BTR, it is actually a 'reclaimed land' and it is not included in the Data Bank Register.

4. In the said circumstances, there will be a direction to the respondents to release the vehicle bearing Registration No.**KL-36-6663** to the petitioner forthwith on execution of a Simple Bond. However, this will not bar the way of the concerned respondents to proceed with further steps, if at all any offence is involved under any provisions of law, particularly MMDR Act or KMMC Rules.

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

The writ petition stands disposed of.

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

sp