

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 7821 of 2015 (C)

PETITIONER :

**ATHIRA SUNILKUMAR,
W/O.SUNILKUARM, AGED 22 YEARS,
VIPIN BHAVANAM, KADUVINAL,
VALLIKUNNAM P.O., MAVELIKKARA.**

**BY ADVS.SRI.K.SIJU
SRI.S.ABHILASH
SMT.NIMA JACOB**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION, KOLLAM - 691 013.**
- 2. THE TAHSILDAR,
KARUNAGAPPALLY TALUK,
KOLLAM DISTRICT - 690 518.**
- 3. THE VILLAGE OFFICER,
ADINADU VILLAGE, KOLLAM DISTRICT - 690 542.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 7821 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: THE COPY OF REGISTRATION PARTICULARS OF THE VEHICLE
 NO.KL 31-D 7820.**
- EXT.P-2: THE COPY OF REPORT SUBMITTED BY THE 3RD RESPONDENT
 BEFORE THE 2ND RESPONDENT DATED 16.2.2015**
- EXT.P-3: THE COPY OF APPLICATION WITH RECEIPT FOR INTERIM CUSTODY
 OF THE VEHICLE DT. 6.3.15**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 7821 of 2015

~~~~~

Dated, this the 12th day of March, 2015

JUDGMENT

The petitioner, who is stated as the owner of the tipper lorry bearing No. **KL 31 D 7820**, is aggrieved of seizure of the said vehicle by the third respondent, as evident from Ext. P2 report submitted to 2nd respondent, and in an arbitrary manner, absolutely without any rhyme or reason, alleging that the vehicle was used for conversion of paddy land in violation of the provisions of the Kerala Conservation of Paddy land and Wet land Act 2008.

2. The learned Government Pleader submits, on instructions and with reference to the materials on records, that the lorry belonging to the petitioner was seized while the ordinary earth carried and transported in the said vehicle was attempted to be unloaded in the paddy land, as evident from Ext. P2. The learned Government Pleader submits that, as per the entries in the revenue records, the property concerned is described as 'Nilam'. More over, the property stands included in the draft data bank, as 'paddy land'.

3. The learned counsel for the petitioner submits that the property concerned is neither a 'paddy land' nor a 'wet land' as

defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008, though it has been described as 'Nilam' in the revenue records. It is stated as a reclaimed land, having effected reclamation years back. The provisions of the Act 28 of 2008 could be attracted only 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. The learned counsel for the petitioner submits that though the petitioner approached the first respondent/District Collector for causing the vehicle to be released, by way of Ext. P3 representation, the same is still to be considered. Hence the writ petition.

4. After hearing both the sides, the first respondent is directed to consider Ext. P3 representation preferred by the petitioner for interim custody of the vehicle and pass appropriate orders granting interim custody forthwith, at any rate, within two weeks from the date of receipt of a copy of this judgment, on condition that the 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 vehicle will not be

W.P.(C) No. 7821 of 2015

: 3 :

alienated till the proceedings are finalized. The adjudication proceedings shall be finalized in accordance with law, at the earliest, at any rate, within two months thereafter.

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

The writ petition is disposed of.

Sd/-

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

kmd