

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11388 of 2015 (W)

PETITIONER:

**RAMESH.T.G
S/O.T.GOVINDA RAJ, AGED 29 YEARS,
8/241, LAKSHMI PURAM, PALANI,
PALANI DISTRICT, TAMIL NADU, PIN -624601.**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, PALAKAD -679001.**
- 2. SUB-INSPECTOR OF POLICE, KOLLENGODE POLICE STATION,
KOLLENGODE.P.O., PALAKKAD DISTRICT -578 506.**
- 3. VILLAGE OFFICER,
VILLAGE OFFICE, PALLASSANA VILLAGE, PALLASSANA.P.O.,
PALAKKAD DISTRICT - 678 505.**
- 4. AGRICULTURAL OFFICER, KRISHI BHAVAN, PALLASSANA,
PALLAVOOR.P.O., PALAKKAD DISTRICT -678 505.**

R BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr

WP(C).No. 11388 of 2015 (W)

APPENDIX

PETITIONERS EXHIBIT

**EXHIBIT P1- TRUE COPY OF THE OWNER AND IN POSSESSION OF AN EXCAVATOR
LOADER VEHICLE BEARING REGISTRATION NO PY-01-Y-3099.**

**EXHIBIT P2- TRUE COPY OF THE SEIZURE MAHAZAR DATED 18/03/2015 ISSUED BY
THE 2ND RESPONDENT.**

**EXHIBIT P3- TRUE COPY OF REPORT DATED 19/03/2015 SUBMITTED BY THE 2ND
RESPONDENT TO THE 1ST RESPONDENT.**

RESPONDENTS EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 11388 of 2015

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Dated, this the 7th day of April, 2015

JUDGMENT

The petitioner, who is stated as the owner of the excavator bearing No. **PY 01 Y 3099**, is aggrieved of seizure of the said vehicle by the second respondent, as evident from Ext. P2 mahazar, in an arbitrary manner, absolutely without any rhyme or reason, alleging that the vehicle was used for excavation in the 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 vehicle belonging to the petitioner was seized while the vehicle was being used to excavate earth from the 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, but a dry land and that the excavator was seized when it was being used to

level the property. 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. Ext. P3 is the report submitted by the second respondent to the first respondent.

4. After hearing both the sides, the first respondent is directed to consider the application, if any, 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 either 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 alienated till the proceedings are finalized. The adjudication proceedings shall be finalized after calling for a report from the 3rd and 4th respondent as to the nature of the property concerned, in accordance with law, at the earliest, at any rate, within two months thereafter.

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: 3 :

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