

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 13821 of 2015 (C)

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PETITIONER(S) :

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KUNHU MOHAMMED,  
AGED 55 YEARS, S/O.SAITHALI,  
URALAMKUNNATH HOUSE, SANKARAMANGALAM,  
PATTAMBI P.O., PALAKKAD - 679 303.

BY ADV. SRI.SREEKANTH S.NAIR.

RESPONDENT(S) :

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1. STATE OF KERALA,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001,  
REPRESENTED BY ITS CHIEF SECRETARY.
2. REVENUE DIVISIONAL OFFICER,  
O/O.RDO, OTTAPALAM P.O, PALAKKAD - 679 101.
3. DEPUTY TAHSILDAR,  
TALUK OFFICE, PATTAMBI P.O, PALAKKAD - 679 303.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

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EXHIBIT P1. COPY OF REGISTRATION CERTIFICATE ISSUED TO THE PETITIONER.

EXHIBIT P2. COPY OF THE TAX RECEIPT DATED 1.7.14 ISSUED TO THE PETITIONER.

EXHIBIT P3. COPY OF THE ORDER D.DIS.H 3961/DATED 1-97 ISSUED BY THE REVENUE DIVISIONAL OFFICER OF OTTAPALAM.

EXHIBIT P4. COPY OF THE BUILDING PERMIT NO.A4-2228/2015 ISSUED TO HAMSA.

EXHIBIT P5. COPY OF MAHAZAR DATED 13.4.15 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS :

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NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

**K. VINOD CHANDRAN, J.**

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W.P.(C) No. 13821 of 2015 (C)  
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Dated this the 26<sup>th</sup> day of May, 2015

**J U D G M E N T**

The petitioner is aggrieved with the seizure of the vehicle bearing registration no.KL-52/A-1830 JCB Excavator which is alleged to have been involved in filling up paddy land in Survey No.151/9.

2. The petitioner's contention is that the owner of the said property had obtained Ext.P3 order under the Kerala Land Utilisation Order, 1967 (hereinafter referred to as the 'KLU Order' for short) and had also acquired the building permit from the Local Self Government Institution as per Ext.P4. It is for carrying out the said construction that the vehicle of the petitioner was hired, is the contention. The petitioner's argument is that since Ext.P3 order under the KLU Order permits conversion of the land owned by the hirer of the petitioner, no offence could be alleged under the Kerala Conservation of Paddy Land and

Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act' for short). The conversion, having been effected prior to 2008 by Ext.P3 order, the subject land would be outside the purview of the Paddy Land Act, is the contention.

3. The reliance placed on Ext.P3 and the contention of conversion prior to 2008 cannot be countenanced. The order at Ext.P3 is said to have been passed on the basis of a communication of the Tahsildar, Ottapalam dated 1.8.1994. Ext.P3 does not have a date and seems to have been issued sometime in January, 1997. The conversion, which is directed as per Ext.P3, is confined to 10 cents. There is also a clear finding in the order passed under the KLU Order 1967 that the balance extent available with the petitioner has to be cultivated with paddy. Ext.P3 obviously was an order issued under the KLU Order, 1967, in the year 1997, prior to the introduction of the Paddy Land Act in the year 2008. True, any conversion made prior to the coming

into force of Paddy Land Act, 2008, would be excluded from the purview of the Paddy Land Act, 2008. However, in the present case, despite an order having been issued no conversion is seen to have been effected. This is so since the same was seen to have been attempted by hiring a JCB which was seized as per Ext.P5 seizure mahazar.

4. In such circumstance, despite an order of filling up of 10 cents of land obtained as early as in 1997, nothing was done and the property remained as such till date. In such circumstance, on the introduction of Paddy Land Act, 2008, the said property would be covered under the Paddy Land Act and definitely, proceedings would have to be taken under the Paddy Land Act for conversion, if at all the same is permissible, by seeking for removal from the Data Bank drawn up for the area. The seizure mahazar at Ext.P5 would also indicate that as per the KLU Order, 20 cents of land was sought to be filled up, while the order at Ext.P3, relied on by the land owner, permitted only filling up of 10

cents of land.

5. In such circumstance, the Writ Petition is devoid of merit. However, the petitioner would be entitled to approach the authorities under the provisions of the Paddy Land Act, 2008 for getting release of the vehicle. It is made clear that the observations made with respect to the nature of the land in the above judgment is without prejudice to any contention taken up by the owner before the authorities and the observations are only insofar as rejecting the petitioner's claim of illegal seizure of the JCB excavator.

The Writ Petition would stand dismissed.

Sd/-  
K.VINOD CHANDRAN,  
JUDGE