

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 16691 of 2015 (J)

PETITIONER(S):

**SHAJI P.G., AGED 46 YEARS,
S/O.P.K.GOPALAN, POOVANTHARA HOUSE, PERUVALLUR P.O.,
DESOM, THRISSUR DISTRICT - 680 508,
(REGISTERED OWNER OF JCB-EXCAVATOR KL-46/E-3258)**

BY ADV. SRI.SHOBY K.FRANCIS

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, THRISSUR - 680 003.**
- 2. REVENUE DIVISIONAL OFFICER/SUB-DIVISIONAL MAGISTRATE,
OFFICE OF THE RDO, THRISSUR - 680 003.**
- 3. VILLAGE OFFICER,
ALLOOR VILLAGE OFFICE, ALOOR P.O.,
THRISSUR DISTRICT - 680 683.**
- 4. KANDANASSERY GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, PANCHAYATH OFFICE,
MATOM P.O., THRISSUR DISTRICT - 680 602.**

R1 BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

R4 BY ADVS. SRI.M.ANIL KUMAR

SMT.PREETHI K.PURUSHOTHAMAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 16691 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 : TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE EXCAVATOR
VEHICLE BEARING REGISTRATION NO.KL-46/E-3258 DT.27-6-2011.**

EXT.P2 : TRUE COPY OF THE SEIZURE MAHAZAR DT.21-5-15 ISSUED BY R3.

**EXT.P3 : TRUE COPY OF THE RELEVANT PAGE OF THE 2012-2013 PROJECT WORK
OF THE ROADS DATED NIL.**

**EXT.P4 : TRUE COPY OF THE PROJECT AND ESTIMATE OF THE PANNAISSERY
TEMPLE ANGANVADY ROAD OF THE YEAR 2015-2016.**

**EXT.P5 : TRUE COPY OF THE REQUEST DTD. 28-5-2015 ISSUED BY 4TH RESPONDENT
TO THE 2ND RESPONDENT DTD. 28-5-2015.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv**/**

K. VINOD CHANDRAN, J.

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W.P.(C) No.16691 of 2015 - J

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Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner is a registered owner of an Excavator JCB bearing Registration No. KL-46/E-3258, seized by the 3rd respondent, Village Officer, alleging offence under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (for brevity, Act of 2008). Admittedly the petitioner's vehicle had been engaged in excavation made by the 4th respondent to widen a path way. The 4th respondent Panchayat has filed a statement, in which it is specifically contended that the activity intended was widening of roads, which are disclosed in the Asset Register as Entry No.55 and named as Kizhakke Pannissery Road and Entry No.75 named as Pannissery Ambalam Road. The attempted work was widening and joining of these two roads by constructing a 100 metre road as a development activity. The

land owners of the lands in Alur village had relinquished their right over the portion required for widening and joining of the two roads.

2. The relinquishment procedure is also said to be pending before the revenue authority, as per Kerala Land Relinquishment Act, 1958. The Local Self Government Institution itself, admits the construction of the road. The Local Self Government Institution definitely could approach the Local Level Monitoring Committee for the area constituted under the Act of 2008 and seek for recommendation from the District Level Monitoring Committee to enable an exemption by the Government under Section 10 of the Act of 2008. However, all these procedures, definitely would take some time. But the peculiar facts and circumstances of the case is that, the Local Self Government Institution has come forward to state that excavation was carried on only for a developmental purpose, with public interest as its objective.

3. It is only proper that the petitioner's vehicle be released on the petitioner executing a simple bond without sureties before the District Collector, for the amounts as specified in Section 20 of the Act of 2008. The District Collector shall immediately consider such release at any rate, within a period of one week from the date of execution of simple bond without sureties.

The writ petition is allowed, making it clear that the above shall not be considered as a precedent, since, it is passed only on the facts and circumstances of the above case.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.