

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 21172 of 2015 (V)

PETITIONER:

**GIGIN K.S,
S/O. K.K SURENDRAN, AGED 31 YEARS,
KARIKKOTTU HOUSE, THOTTIPPAL P.O,
THOTTIPPAL VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.
(OWNER OF A HITACHI EXCAVATOR)**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE VILLAGE OFFICER, THOTTIPPAL VILLAGE,
THRISSUR DISTRICT - 680 310.**
- 2. SUB INSPECTOR,
PUTHUKKAD POLICE STATION,
THRISSUR DISTRICT - 680 310.**
- 3. THE DISTRICT COLELCTOR,
THRISSUR DISTRICT - 680 001.**

BY SENIOR GOVT. PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 21172 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1 : TRUE COPY OF THE MAHASSAR PREPARED BY THE
FIRST RESPONDENT DATED 11-06-2015.**

**EXHIBIT P2 : TRUE COPY OF THE CERTIFICATE ISSUED BY THE DEPUTY
MANAGER,VFPCK ,THOTTIPPAL CERTIFYING THAT PETITIONER
SOLD BANANA FROM HIS AGRICULTURAL LAND.**

**EXHIBIT P3 : TRUE COPY OF THE APPLICATION DATED 2-07-2015 SUBMITTED BY
THE OWNER OF LAND BEFORE THE THIRD RESPONDENT.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P.(C) No.21172 of 2015-V

Dated this the 14th day of July, 2015.

JUDGMENT

Petitioner is the owner of a Hitachi Excavator, which was seized as per Ext.P1 Mahazar. The allegation in Ext.P1 is also that the excavator was found extracting clay by the owner of the land, which is described as a 'paddy land'. The petitioner, on the basis of Ext.P3 application filed by the owner of the land before the District Collector, would contend that there is no dispute that the subject land was a 'paddy land'. However, the activity conducted was only to carry out intermediary cultivation of plantain, which is allowed as per Section 3(2) of the Kerala Conservation of Paddy Lands and Wet Lands Act, 2008 [for brevity, the Act of 2008].

2. In such circumstance, the petitioner contends that there is no reason why the excavator should be kept in custody and there could be no valid reason for confiscation of the same

also, since no violation of Act of 2008 can be found.

In such circumstances, it is only proper that the District Collector consider Ext.P3 application filed by the owner of the land, after getting a report from the Village Officer. The petitioner, the owner of the vehicle, is substantially interested in the confiscation of the vehicle and seeks release of the same. The petitioner shall appear and file an application before the District Collector on 20.07.2015. The Office of the District Collector shall give a date of hearing and dispose of the matter after getting report from the Village Officer as directed herein above within a period of one month from that date.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

sp