

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C).No. 21404 of 2015 (A)

PETITIONER(S) :

1. **ABBAS P.P.,
S/O.MUHAMMED, POTTENPULAN HOUSE, MELMURI
MALAPPURAM DISTRICT
(REGISTERED OWNER OF AN EXCAVATOR/JCB
BEARING REGISTRATION NO.KL-10AG/4427)**
2. **PABDUL MAJEED
S/O.ALAVI HAJI, PYARI MAHAL,
CHEMBAKUTHU, EDAVANNA
MALAPPURAM DISTRICT
(REGISTERED OWNER OF A MINI LORRY
BEARING REGISTRATION NO.KL10AE/2188)**
3. **P.K.MUHAMMED ASHARAF
S/O.HYDRU HAJI, DAFFODILS, KARATHODU
OORAKAM, MELMURI, MALAPPURAM DISTRICT
(REGISTERED OWNER OF A MINI LORRY BEARING REGISTRATION
NO.KL-65B/4188)**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S) :

1. **THE DISTRICT COLLECTOR,
MALAPPURAM, PIN: 676 505.**
2. **THE REVENUE DIVISIONAL OFFICER
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN- 679 322.**
3. **THE TAHSILDAR,
TALUK OFFICE, ERNAD,
MANJERI, MALAPPURAM DISTRICT
PIN- 676 121.**
4. **THE VILLAGE OFFICER
ANAKKAYAM VILLAGE, MALAPPURAM DISTRICT,
PIN- 676 509.**

R1 TO R4 BY GOVT. PLEADER SRI. BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 21404 of 2015 (A)

APPENDIX

PETITIONERS' EXHIBITS :

**EXT. P1: TRUE COPY OF THE NO-OBJECTION ISSUED BY THE SECRETARY,
 ANAKKAYAM PANCHAYATH DATED 7/3/2013.**

**EXT. P2: TRUE COPIES OF THE PHOTOGRAPHS OF THE PROPERTIES WHERE
 THE ROCK DUST WAS UNLOADED.**

**EXT. P3: TRUE COPY OF THE SEIZURE MAHAZAR PREPARED BY THE 4TH
 RESPONDENT DATED 4/7/2015.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

K. VINOD CHANDRAN, J

W.P(C) No. 21404 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner's vehicles bearing registration Nos. KL 10AE/2188 and KL 65 B/4188 have been seized by the Village Officer. The cause of action for the seizure was an alleged offence committed on filling up of paddy land, in contravention of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (for short "Paddy Land Act" Only). The petitioners claim that they are lorry owners and they are not responsible for the filling up. They had merely hired the vehicle on the basis of Ext.P1 permit issued by the Local Self Government Institution. The petitioners also submit that in the land there was a basement constructed and there was merely filling up of the land with gravel and hence there could be no allegation of an offence under the Paddy Land Act.

2. The learned Government Pleader however, submits that the land is included in the Draft Data Bank prepared for the area and in such circumstance, necessarily the petitioner would have to approach the Local Level Monitoring Committee constituted under the Act, even for

filling up of the land for residential purpose. There is authority on the Local Level Monitoring Committee to consider such application and the land owner having not done that the petitioner cannot claim ignorance of the fact that they were filling up paddy lands.

3. In such circumstance, the only direction could be to the District Collector who shall consider the question of confiscation under Section 20 of the Paddy Land Act. It is made clear that the District Collector shall consider the same untrammelled by any observations made herein which are only of prima facie nature to decline the jurisdiction under Article 226 of the Constitution of India. The Village Officer shall transmit the files to the District Collector, if not done till now, within one week from the date of production of the certified copy of the judgment and the issue shall be considered by the District Collector within three weeks thereafter with notice to the petitioner and after affording an opportunity of hearing.

Writ petition is disposed of.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge