



2025:KER:73584

WP(C) NO. 16627 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 7TH DAY OF OCTOBER 2025 / 15TH ASWINA, 1947

WP(C) NO. 16627 OF 2025

PETITIONER:

VENUGOPALAN C. ,
AGED 55 YEARS
NADUVILANKANDI HOUSE, MOCHERY, ULIYIL P.O, IRITTY,
KANNUR, PIN - 670702

BY ADVS.
SRI.KRISHNA PRASAD. S
SMT.SINDHU S KAMATH
SMT.SWAPNA S.K.
SMT.ROHINI NAIR
SHRI.SURAJ KUMAR D.
SHRI.SUNILKUMAR K.K.
SMT.A.KARTHIKA SIVAN

RESPONDENTS:

- 1 THE TAHSILDAR (LAND RECORDS),
TALUK OFFICE, MANANTHAVADY, WAYANAD DISTRICT, PIN
- 670645
- 2 THE VILLAGE OFFICER,
MANANTHAVADY VILLAGE OFFICE, THAZHE ANGADI,
MANANTHAVADY, KERALA, PIN - 670645
- 3 THE DISTRICT COLLECTOR,



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COLLECTORATE, KALPETTA, WAYANAD DISTRICT, PIN -
673121

4 STATE OF KERALA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF
REVENUE AND LAND RECORDS, SECRETARIAT,
THIRUVANANTHAPURAM DISTRICT, PIN - 695001

SR.GP. SMT. PREETHA K.K.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24.09.2025, THE COURT ON 07.10.2025 DELIVERED THE
FOLLOWING:



C.S.DIAS,J.

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W.P.(C)No.16627 of 2025

Dated this the 7th day of October, 2025

JUDGMENT

The petitioner is the owner of an excavator bearing No. KL-78-0404. The petitioner rents out his excavator for earth moving works. On 29.01.2025, an owner of a land in Mananthavady Village took the excavator on rent to dig a wastewater pit in his property. The landowner told the petitioner's driver that his property is a dry land. On the next day, the petitioner's driver was directed by the 2nd respondent to take the excavator to the 1st respondent's office. The 1st respondent told the petitioner's driver that the excavator was seized. The excavator was seized without any inspection, and based on false information. Even though the petitioner requested the respondents 1 to 3



to release the excavator, the same was to no avail. The petitioner has received information through his friend under the Right Information Act, which substantiates that though the excavator was seized on 29.01.2025, the 2nd respondent sent the mahazar and sketch only the next day. The earth work was carried out in the property comprised in Survey No.207/2 pt, which lies contiguously with Survey No.209pts. There is no demarcation of boundaries between the two properties. Only some area of the properties is included in the data bank, which is evidenced from Exts.P4 and P5 communications. On 05.03.2025, the petitioner learnt from his friend that proceedings have been initiated under the Kerala Conservation of Paddy Land and Wetland Act, 2008 ('Act' in short). The petitioner was directed to appear before the 3rd respondent on the following day. Although the petitioner did not receive



the notice, he appeared before the 3rd respondent on 06.03.2025. He was not afforded an opportunity of being heard. He was told that since the information regarding the classification of the land was awaited, a fresh notice would be issued to him for hearing, and thereafter, the proceedings would be finalised. Immediately, the petitioner submitted Ext.P7 representation before the 3rd respondent. As there was inordinate delay in finalising the proceedings, the petitioner filed W.P.(C)No.11019/2025 before this Court, to direct the respondents to give him the interim custody of the excavator. He also filed W.P.(C)No.13069/2025, to declare the seizure of the excavator was illegal. When the writ petitions were taken up for consideration, it was submitted that Ext.P11 confiscation order has been passed. The petitioner is directed to deposit Rs.32,25,000/- to get his



vehicle released. In fact, Ext.P12 report of the Agricultural Officer clearly reveals that the property in Survey No. 207/2 is a converted land. There is no mention regarding the remaining extent of land. In light of Ext.P11 order, this Court closed the writ petitions, without prejudice to the right of the petitioner to workout his remedies available under law. The petitioner is the sole bread winner of his family. He purchased the excavator by availing financial assistance. The vehicle is exposed to the vagaries of the nature. The petitioner has also filed Ext.P15 petition to rehear the matter in detail. Ext.P11 order is illegal and arbitrary, and may be quashed. The 3rd respondent may be directed to consider Ext.P15 representation in accordance with law.

2. In the statement filed by the 3rd respondent it is stated that, on getting information that the



excavator was being used to illegally convert 2.7192 hectares of paddy land comprised in Survey No.207/2 in Mananthavady Village, which is classified as 'Nilam' in the data bank, the excavator was seized as per the provisions of the Act. Except for one landowner all the others were present at the time of hearing on 06.03.2025. The absentee landowner and the Agricultural Officer were heard on 26.03.2025. The Agricultural Officer has reported that 2.0235 hectares of paddy land was illegally converted without permission. The Joint Regional Transport Officer, Mananthavady has assessed the excavator's value at Rs.21,50,000/-. Accordingly, the 3rd respondent has passed Ext.P11 order under Section 20 of the Act, confiscating the excavator, and permitting it to be released on the petitioner on him paying Rs.32,25,000/-, if not, it would be sold in public auction. The authorised officer is



empowered under the Act to seize any vehicle used in contravention of the provisions of the Act. The petitioner, without invoking his statutory remedy of appeal under Section 21 of the Act, has directly approached this Court. There is no merits in the writ petition.

3. Pursuant to the direction of this Court dated 8.7.2025, the 3rd respondent has filed an additional affidavit stating that Ext.R3(c) notice was received by one Sameer, the friend of the petitioner. Consequently, the petitioner appeared before the 3rd respondent on 06.03.2025 and gave Annexure R3(a) statement.

4. Heard; the learned counsel for the petitioner and the learned Senior Government Pleader.

5. The learned counsel for the petitioner contended that the decision making process leading to Ext.P11 order is vitiated due to procedural irregularities



and there is an arbitrary exercise of power. Annexure R3(c) notice dated 03.03.2025, was admittedly served on the petitioner's friend only on 05.03.2025, directing the petitioner to appear on the following date. The petitioner, who is a resident of Iritty, Kannur, rushed to the office of the 3rd respondent on 06.03.2025 and his statement was recorded. He was specifically told that he would be granted an opportunity to substantiate his contentions on the hearing date, which would be intimated to him. However, no further hearing was conducted. The petitioner has valid contentions to be raised before the 3rd respondent. As the 3rd respondent has violated the rudimentary principles of natural justice, this Court can exercise its plenary powers under Article 226 of the Constitution of India, without relegating the petitioner to exhaust his statutory remedies. The learned Counsel relied on the derision of



this Court in **Siraj V. District Collector, Civil Station.P.O., Kozhikode [2023(6) KHC 413]** to fortify his contention that the Village Officer has not specifically observed that the vehicle was used or deemed to have been used for contravening the provisions of the Act. This relevant material is conspicuously absent in the mahazar, which was prepared at the first instance. Therefore, the entire proceedings leading to Ext.P11 order is untenable in law. The learned Counsel also relied on the decision in **Deepu D. v. District Collector, Kollam and Others[2022(5) KHC 90]** to reinforce his submissions. He prayed that Ext.P11 order may be quashed and the 3rd respondent be directed to consider Ext.P15 representation in accordance with law. In the meantime the interim custody of the excavator be given to the petitioner.

6. The learned Senior Government Pleader



refuted the above submissions of the learned Counsel for the petitioner. She submitted that the petitioner appeared before the 3rd respondent on 06.03.2025 and gave his statement. The petitioner has an alternative statutory remedy of appeal under Section 20 of the Act. Therefore, this Court may not entertain the writ petition, particularly since the irregularity of procedure is not a ground to by-pass the statutory remedy. Hence, the writ petition may be dismissed.

7. The materials on record reveal that the excavator was seized on 29.01.2025, which is discernible from Ext.P2 seizure mahazar dated 30.01.2025 prepared by the 1st respondent. The matter was reported to the 3rd respondent, who issued Ext.P6 notice dated 03.03.2025, to the petitioner's friend on 05.03.2025, directing the petitioner to appear before him on 06.03.2025. The said fact proves that the



petitioner was not afforded an ample opportunity of preparing his defence and being heard. Instead, the petitioner's statement is said to be recorded on 06.03.2025.

8. It is not disputed that the petitioner had filed W.P.(C)Nos.11019/2025 and 13069/2025 before this Court, to give him the interim custody of the excavator and declare the seizure to be illegal, respectively. Then, the 3rd respondent passed Ext.P11 order on 29.03.2025, ordering the excavator to be confiscated.

9. A reading of Ext.P11 order shows that none of the contentions raised by the petitioner, especially the principles relating to seizure laid down in **Siraj and Deepu D's cases (supra)** have not been considered by the 3rd respondent. Moreover, there is no material to prove that the excavator was seized from a paddy land/wetland, to attract the provisions of the Act, which



is imperative to pass an order of confiscation. In any given case, as the petitioner was denied an opportunity of fair hearing and was unable to raise all the contentions before this Court. Thus, I am convinced and satisfied that the decision making process leading to Ext.P11 order is illegal and arbitrary and the same needs to be interfered with in exercise of the plenary powers of this Court, notwithstanding the alternative statutory remedy because of the violation of the principles of natural justice. Thus, I am inclined to quash Ext.P11 order to afford the petitioner a full opportunity of being heard.

In the aforesaid circumstances, I allow the writ petition by quashing Ext.P11 order and directing the 3rd respondent to reconsider the matter afresh, after affording the petitioner an opportunity of being heard. It would be upto the petitioner to submit his written



submissions before the 3rd respondent within four weeks from today along with a copy of this judgment. If such written submissions are produced within the stipulated time period, 3rd respondent shall afford the petitioner, his Counsel, an opportunity of being heard, and then finalise the proceedings in accordance with law and as expeditiously as possible. Until orders are passed, coercive proceedings against the excavator shall stand deferred.

The writ petition is ordered accordingly.

Sd/-

C.S.DIAS, JUDGE



APPENDIX OF WP(C) 16627/2025

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE SRTO IRITTY DATED 30-10-2018
- Exhibit P2 A TRUE COPY OF THE REPORT ALONG WITH THE MAHAZAR AND SKETCH SENT BY THE 2ND RESPONDENT DATED 30-01-2025
- Exhibit P3 A TRUE COPY OF THE REPORT SENT BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT DATED 31-01-2025
- Exhibit P4 A TRUE COPY OF THE COMMUNICATION SENT BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT DATED 27-02-2025
- Exhibit P5 A TRUE COPY OF THE COMMUNICATION SENT BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT DATED 27-02-2025
- Exhibit P6 A TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT DATED 03-03-2025
- Exhibit P7 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 10-03-2025
- Exhibit P8 A TRUE COPY OF THE GOOGLE MAP IMAGE OF THE PROPERTY
- Exhibit P9 A TRUE COPY OF THE COMMUNICATION ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT DATED 11-03-2025
- Exhibit P10 A TRUE COPY OF THE REPORT SUBMITTED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT DATED 17-03-2025
- Exhibit P11 A TRUE COPY OF THE ORDER BEARING NO. DCWYD/955/2025-L9 DATED 29-03-2025 ISSUED BY THE 3RD RESPONDENT
- Exhibit P12 A TRUE COPY OF THE REPORT SENT BY THE AGRICULTURAL OFFICER TO THE SUB COLLECTOR DATED 22-03-2025
- Exhibit P13 A TRUE COPY OF THE JUDGMENT PASSED IN



- WP(C) NO. 13069 OF 2025 DATED ON 07-04-2025
- Exhibit P14 A TRUE COPY OF THE PHOTOGRAPH OF THE JCB EXCAVATOR BEING USED FOR VARIOUS EARTH MOVING TASKS IN SURVEY NUMBER 207/2
- Exhibit P15 A TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 10-04-2025
- Exhibit P16 A TRUE OF THE POSTAL RECEIPT SENT BY THE PETITIONER TO THE 3RD RESPONDENT DATED 12-04-2025
- Exhibit P17 A TRUE COPY OF THE ORDER PASSED BY THE 3RD RESPONDENT DATED 19-05-2025
- Exhibit P18 A TRUE COPY OF THE APPLICATION FILED BEFORE THE 1ST RESPONDENT DATED 20-04-2025 ALONG WITH THE LEGIBLE TYPED COPY OF THE SAME
- Exhibit P19 A TRUE COPY OF THE COMMUNICATION ISSUED BY THE DEPUTY TAHSILDAR , MANANTHAVADY DATED 26-05-2025
- Exhibit P20 A TRUE COPY OF THE REPLY ISSUED BY THE OFFICE OF THE 1ST RESPONDENT DATED 04-06-2025

RESPONDENT ANNEXURES

- Annexure R3(a) True copy of the statement no. DCWYD/955/2025 dated 06.03.2025
- Annexure R3(b) True copy of the hearing notice no. DCWYD/955/2025- L9 dated 03.03.2025 issued to Sri. Attakkoya Kuniil, Abdul Sathar, and Venugopal,
- Annexure R3(c) True copy of the hearing notice no. DCWYD/955/2025- L9 dated 03.03.2025 issued to Smt. Haseena