

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C) .NO. 1991 OF 2012 (Y)

PETITIONER:

T. VALSARAJAN, AGED 50 YEARS,
S/O. NARAYANAN NAIR,
'LAKSHMI', PULLUMKUNNU ROAD,
RAMANATTUKARA, KOZHIKODE DISTRICT.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
SECRETARY TO GOVT. AGRICULTURAL DEPARTMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM
695 001.
2. REVENUE DIVISIONAL OFFICER,
KOZHIKODE, 673 020.
3. LOCAL LEVEL MONITORING COMMITTEE,
REP BY IT'S CHAIRMAN,
(PRESIDENT, RAMANATTUKARA GRAMA PANCHAYATH)
RAMANATTUKARA P.O.,
KOZHIKODE DISTRICT 673 633
4. SMT. RADHA BALAN,
SI APPARTMENT, 6A GLANDANE POINT,
SIVAPURI, BANK ROAD, NEAR FATHIMA HOSPITAL,
KOZHIKODE, 670020.
5. RAMANATTUKARA GRAMA PANCHAYAT,
REP BY IT'S SECRETARY,
RAMANATTUKARA P.O.,
KOZHIKODE DISTRICT 673 633.

R3 & 5 BY ADV. SRI.ESM.KABEER
RR4 BY ADV. SRI.SRINATH GIRISH
RR4 BY ADV. SRI.K.S.VINAYAK PRATAP
BY GOVERNMENT PLEADER, SRI. T.J. MICHAEL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1. COPY OF THE ROUGH SKETCH OF THE AREA.

EXHIBIT P2. COPY OF THE ORDER DATED 23.08.2001 PASSED BY THE
2ND RESPONDENT.

EXHIBIT P3. COPY OF THE COMPLAINT DATED 24.2.2010 SUBMITTED BEFORE
THE 1ST RESPONDENT.

EXHIBIT P4. COPY OF THE ORDER DATED 25.6.2010 ISSUED BY THE 2ND
RESPONDENT.

EXHIBIT P5. COPY OF G.O.(RT) NO. 183/2010/AD DATED 27.1.2011.

EXHIBIT P6. COPY OF THE OBJECTION DATED 10.8.2010 SUBMITTED BEFORE
THE AGRICULTURAL OFFICER.

EXHIBIT P7. COPY OF THE MINUTES DATED 22.11.2010 OF THE MEETING
OF 3RD RESPONDENT.

EXHIBIT P8. COPY OF THE REPRESENTATION DATED 21.2.2011 SUBMITTED
BEFORE THE 3RD RESPONDENT.

EXHIBIT P9. COPY OF JUDGMENT IN W.P. 25891/2011.

EXHIBIT P10 COPY OF THE JUDGMENT IN W.A. 1531/2011.

EXHIBIT P11 COPY OF THE COMMUNICATION DATED 20.12.2011 ISSUED
BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS:

EXHIBIT R4 (A) : COPY OF THE REPRESENTATION DATED 15.12.2011
SUBMITTED BY THE 4TH RESPONDENT BEFORE THE
SECRETARY, REVENUE DEPT. GOVT. OF KERALA.

EXHIBIT R4 (B) : COPY OF DOCUMENT NO. 396/2007, FEROKE, S.R.O.,
DATED 24.1.2007.

EXHIBIT R4 (C) : COPY OF DOCKET NO. 397/2007, FEROKE, S.R.O.,
DATED 24.1.2007.

EXHIBIT R4 (D) : COPY OF THE BUILDING PERMIT ISSUED TO T.SHAREEF &
OTHERS BY THE RAMANATTUKARA PANCHAYATH DATED
20.03.2004.

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

= = = = =

W.P. (C) No.1991 of 2012

- - - - -

Dated this the 4th day of November, 2015

J U D G M E N T

The petitioner, who is the owner in possession of 66¼ cents of paddy land in survey No.538/5 of Ramanattukara Village, is aggrieved by Ext.P11 decision of the 3rd respondent, not to include 1.37 acres of paddy land, which was converted in violation of the statutory provisions of the Kerala Conservation of Paddy land and Wet land Act, 2008 (*hereinafter referred to as 'the Act'*) and owned by the 4th respondent, in the Data Bank. Admittedly, the alleged reconversion was effected before 2008 and he has been legally fighting for the reconversion of the said land from 2000 onwards. By Ext.P5 order, the Government directed the 3rd respondent to consider and pass orders on the Revision Petition filed by the petitioner after the final publication

-: 2 :-

of the Data Bank as per the Act. Thereafter, the 2nd respondent or 3rd respondent has not taken any action in compliance with the direction in Ext.P5 order, passed by the Government and aggrieved by the inaction, the petitioner approached this Court by filing W.P.(C) No.25891/2011, seeking a direction to 2nd and 3rd respondents to take effective steps in compliance with the direction in Ext.P5 order. This Court directed the 3rd respondent to take appropriate action on Ext.P10 in that Writ Petition in terms of the provisions of Act 28 of 2008. In compliance with the said judgment, the 3rd respondent considered the matter and passed Ext.P11 order, stating that the disputed property is not a paddy land and the 4th respondent has reclaimed the said land, before the commencement of Act 28 of 2008; so, the 3rd respondent has no power to include the land, which was reclaimed before the commencement of the Act, into the Data Bank. The legality and propriety of the said

-: 3 :-

order is under challenge in this Writ Petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. Learned counsel for the petitioner advanced arguments challenging the findings of the 3rd respondent in Ext.P11 order and it is specifically contended that the 3rd respondent has wriggled out of jurisdiction and power conferred on them under the Act. According to the learned counsel for the petitioner, merely on the reason that the disputed land was converted before the commencement of Act 28 of 2008, the 3rd respondent closed the proceedings, instead of reporting the matter of unauthorised conversion of the paddy land, to the 2nd respondent, in compliance with the statutory mandate under Section 5(4)(iv) of the Act to take action under Kerala Land Utilisation Order.

4. Per contra, the learned counsel for the respondents advanced arguments to justify the findings

-: 4 :-

of the 3rd respondent that the property cannot be included in the Data Bank as the same was reclaimed, before the commencement of Act 28 of 2008. According to the learned counsel for the 4th respondent, there is no reason to interfere with the findings of the 3rd respondent in Ext.P11 Order.

5. The question to be considered is, whether the 3rd respondent is justified in closing the proceedings on a finding that the disputed land was a paddy land, which was reclaimed before the commencement of Act 28 of 2008. Going by the statutory mandate under Section 5(4)(i) to (iv) of the Act, it is seen that the 3rd respondent shall perform the functions, which is enumerated under Section 5(4)(iv) of the said Act. According to Section 5(4)(iv), if the land in question is found converted, before the commencement of Act 28 of 2008, it is obligatory on the part of the 3rd respondent to give a report to the 2nd respondent/Revenue Divisional Officer,

-: 5 :-

as the conversion made before 2008 is a matter, which would come under the land utilisation Order. But, from the impugned Order, it is seen that the 3rd respondent has not made such a report to the 2nd respondent and instead, he has closed the proceedings there. I find that the 3rd respondent cannot be justified in closing the matter there, merely on the finding that the land in question is one, which was reclaimed before the commencement of Act 28 of 2008. So also, it is needless to say, on receipt of such a report from the 3rd respondent, it is obligatory on the part of the 2nd respondent to take action on the report in accordance with the provisions under the Kerala Land Utilisation Order.

6. In the above analysis of the matter in issue, the 3rd respondent is directed to report the aforesaid matter of unauthorised conversion made before 2008 to the 2nd respondent, within a period of two months from the date

-: 6 :-

of receipt of a copy of this judgment and the 2nd respondent shall take action on the report in accordance with the said law.

7. On receipt of the said Report, the 2nd respondent shall pass Orders, after affording an opportunity of being heard to both parties.

This Writ Petition is disposed of accordingly.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge