

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361

WP(C).No. 89 of 2015 (I)

PETITIONER(S):

- 1. V.O.SAJAN,S/O.MADHAVAN PILLAI,
SREE MANDIRAM, CHADAYAMANGALAM.P.O.,
KOLLAM DISTRICT.**
- 2. SANDHYA,W/O.V.O.SAJAN, SREE MANDIRAM,
CHADAYAMANGALAM.P.O., KOLLAM DISTRICT.**

BY ADV. SRI.ANCHAL C.VIJAYAN

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,PIN-695 001**
- 2. THE DISTRICT COLLECTOR,
KOLLAM,PIN-691 013**
- 3. THE REVENUE DIVISIONAL OFFICER,
KOLLAM,PIN-691 001**
- 4. ADDITIONAL TAHAZILDAR, KOTTARAKKARA,
KOLAM DISTRICT,PIN-691 506**
- 5. THE VILLAGE OFFICER, CHADAYAMANGALAM.P.O.,
KOLLAM DISTRICT,PIN-691 534**
- 6. THE AGRICULTURAL OFFICER, KRISHI BHAVAN,
CHADAYAMANGALAM, KOLLAM DISTRICT,PIN-691 534.**

R1 TO R6 BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TAX RECEIPT NO.1749893 DATED 08/10/2014 ISSUED BY THE 5TH RESPONDENT TO THE 1ST PETITIONER.
- P2 COPY OF THE TAX RECEIPT NO.1749891 DATED 08/10/2014 ISSUED BY THE 5TH RESPONDENT TO THE 2ND PETITIONER.
- P3 COPY OF THE LETTER AND THE RELEVANT PAGES OF THE DATA BANK IN BLOCK NO.42 OF CHADAYAMANGALAM VILLAGE ISSUED BY THE 5TH RESPONDENT TO THE 1ST PETITIONER.
- P4 COPY OF THE COMMUNICATION NO.A1-4475/14 DATED 05/11/2014 ISSUED BY THE SECRETARY, CHADAYAMANGALAM GRAMA PANCHAYAT TO THE 1ST PETITIONER.
- P5 COPY OF THE SHOWING THE PRESENT NATURE OF THE PROPERTY IN SURVEY NOS.179/6, 7 AND 8 IN BLOCK NO.42 OF CHADAYAMANGALAM VILLAGE
- P6 COPY OF THE PETITION SUBMITTED BY THE PETITIONERS TO THE 3RD RESPONDENT UNDER CLAUSE 6 OF THE KERALA LAND UTILIZATION ORDER 1967

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.S.TO.JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C)No. 89 OF 2015
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Dated this the 6th January, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

"i) issue a writ in the nature of mandamus or any other appropriate writ, direction or order commanding the 3rd respondent to consider and pass orders in Exhibit P6 petition submitted by the petitioners under Clause 6 of the Kerala Land Utilization order, 1967 enabling the petitioners to utilize the land for profitable purposes including construction and commercial;

ii) declare that petitioners has got every right to use the land in resurvey Nos.179/6. 179/7 and 179/8 in Block No.42 of Chadayamangalam Village, Kottarakkara Taluk, as dry land without being obstructed by the respondents;

iii) issue a writ in the nature of mandamus commanding the respondents to correct the nature of the land owned by the petitioners in resurvey Nos.179/6, 179/7 and 179/8 in Block No.42 of Chadayamangalam village as 'Purayidom' instead of 'Nilam' in the revenue records on the basis of the present position of the land and the entries

made by the 6th respondent in the Data Bank in respect of these properties;

iv) to allow such other and further reliefs as this Hon'ble Court find deem fit to in the nature and circumstances of the case;
And

v) allow this writ petition with the petitioner's costs."

2. The learned Counsel for the petitioners submits that the property belonging to the petitioners, having an extent of 32.15 Ares comprised in Sy.Nos.179/6, 179/7 and 179/8 of Chadayamangalam Village, which is being enjoyed by the petitioners also remitting tax as borne by Exts.P1 and P2 receipts, is actually a reclaimed land, though the same stands described as 'Nilam' in the revenue records . It is pointed out that various types of trees, aged more than two decades are standing in the property. The learned Counsel also places reliance on the entries in the Data Bank Register, as to the nature of the property. Because of wrong description in the revenue records, the petitioners are not in a position to enjoy the property in a better and effective manner. In the said circumstance, the petitioners have preferred Ext.P6 petition before the third respondent/Revenue Divisional Officer, in terms of Clause (6) of

the Kerala Land Utilization Order, 1967 and the prayer is only to cause the same to be considered and disposed of within a reasonable time.

3. Heard the learned Government Pleader as well, who points out that the actual position/nature of the property is not discernible from Ext.P3 extract of Data Bank Register and as such, for causing disposal of Ext.P6, a report has to be obtained from the 6th respondent /Agricultural Officer .

4. In the above circumstance, the third respondent/RDO is directed to call for a report from the 6th respondent/Agricultural Officer and pass appropriate orders in accordance with law on Ext.P6, which shall be done after affording an opportunity of hearing to the petitioners. The proceedings, as above, shall be finalised at the earliest, at any rate, within three months from the date of receipt of a copy of the judgment. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the third respondent for further steps.

P.R.RAMACHANDRA MENON
JUDGE