

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 129 of 2015 (M)

PETITIONER(S):

**SUNIL KUMAR, S/O.YESODHARAN,
AGED 45 YEARS, INDRAPRASTHAM,
PARAVUR MURI, PUNNAPRA WEST PANCHAYATH,
PARAVUR VILLAGE, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.PRATHEESH.P.,
SMT.S.SEETHA.**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
CIVIL STATION BUILDING,
ALAPPUZHA-688 001.**
- 2. SUB COLLECTOR,
OPP. DISTRICT COURT ROAD,
ALAPPUZHA-688 011.**
- 3. VILLAGE OFFICER,
THAKAZHI VILLAGE,
ALAPPUZHA-688 562.**

BY GOVT. PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- THE COPY OF THE ORDER ISSUED BY THE SUB COLLECTOR, ALAPPUZHA VIDE NO.5138/14/H/K DIS DATED 27.10.2014.
- P2- THE COPY OF THE THANDAPER ACCOUNT.
- P3- THE COPY OF RELEVANT PAGE OF DATA BANK.
- P4- THE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN W.P[C]NO.29702/2014 DATED 18.12.2014.
- P5- COPY OF THE ORDER NO.6577(2)/14/G PASSED BY THE 2ND RESPONDENT DATED 22/12/2014.
- P6- THE RELEVANT PAGE OF THE TAX REGISTER OF THE PROPERTY.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.129 OF 2015
.....

Dated this the 26th February, 2015

J U D G M E N T

The petitioner is stated as the owner of the property having an extent of 73.50 Ares in Re.Sy No.135/3, 135/4, 135/3-1 of Thakazhy village. According to the petitioner, the said property is not a paddy land or wet land and is not included in the Data Bank Register as disclosed from Ext.P3. With intent to develop the property, the petitioner approached the second respondent/Sub Collector, Alappuzha and after considering the facts and circumstances, the second respondent passed Ext.P1 order dated 27.10.2014, whereby the petitioner was permitted to raise the level of the property effecting some filling up exercise. It was accordingly that the petitioner was doing the said operation, but on a fine morning, based on some complaint and some alleged inspection stated as conducted by the Jr. Superintendent of the office of the second respondent, Ext.P5 order came to be passed on 22.12.2014, whereby Ext.P1 has

been cancelled, arriving at a wrong inference that the property is not a dry land. This in turn is under challenge in this writ petition.

2. Heard the learned Govt. Pleader as well.

3. The learned Counsel for the petitioner submits that Ext.P5 order was passed by the second respondent without giving an opportunity of hearing and as such, there is violation of fundamental principle of natural justice.

4. After going through the pleadings and proceedings, it is seen that no notice whatsoever was issued to the petitioner by the second respondent prior to passing Ext.P5 and as such, the matter requires to be reconsidered. Accordingly, Ext.P5 is set aside and the second respondent/Sub Collector is directed to reconsider the matter after affording an opportunity of hearing to the petitioner and also other interested parties, if any, after getting a report from other appropriate authorities, if necessary. This shall be done at the earliest, at any rate, within six weeks from the date of receipt of a copy of this judgment. No filling up exercise shall be pursued based on Ext.P1 till the

proceedings are reconsidered and finalised by the second respondent, as above.

The writ petition is disposed of. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the second respondent /Sub Collector for further steps.

P.R.RAMACHANDRA MENON
JUDGE

/k