

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 1279 of 2014 (H)

PETITIONER(S):

1. K.V.KRISHNAKUMAR,
S/O. K.K.VASU PANICKER, KUNNALTHULLY HOUSE,
AYYANTHOLE P.O., THRISSUR-680 003, PROPRIETOR,
ONLAND FISH COMPANY, 17/435, MARATHAKARA P.O.,
THRISSUR-680 320.
 2. ARAVINDAKSHAN,
S/O. KANDANKADAVIL MADHAVI AMMA,
MARATHAKKARA VILLAGE, THRISSUR TALUK - 680 321.
 3. NANDAKUMAR,
S/O. KANDANKADAVIL MADHAVI AMMA,
MARATHAKKARA VILLAGE, THRISSUR TALUK - 680 321.
- BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.V.S.SHIRAZ BAVA

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO DEPARTMENT OF AGRICULTURE,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT COLLECTOR,
THRISSUR, COLLECTORATE, AYYANTHOLE,
THRISSUR - 680 321.
3. THE REVENUE DIVISIONAL OFFICER,
THRISSUR, THE CHAIRMAN OF DISTRICT LEVEL
MONITORING COMMITTEE CONSTITUTED UNDER
KERALA CONSERVATION OF PADDY LAND
AND WETLAND ACT 2008 - 680 321.
4. PUTHUR GRAMA PANCHAYATH,
PUTHUR P.O., THRISSUR-680 014,
REPRESENTED BY ITS SECRETARY.

Msv/

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**5. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, PUTHUR,
(CONVENER OF LOCAL LEVEL COMMITTEE
CONSTITUTED UNDER KERALA CONSERVATION
OF PADDY LAND AND WET LAND ACT,
2008), THRISSUR DISTRICT - 680 014.**

**R1 TO R3 & R5 BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ
R4 BY ADV. SRI.C.A.CHACKO**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT. P1 : TRUE COPY OF THE CONSENT LETTER.

EXT. P1(A): TRUE COPY OF THE CONSENT LETTER.

EXT. P2 : TRUE COPY OF THE LICENSE BEARING NO.A2-561/11-12 DTD.12.10.2011.

EXT. P3 : TRUE COPY OF THE REPORT DTD.23.1.2012.

**EXT. P4 : TRUE COPY OF THE PROCEEDINGS OF THE MEETING HELD ON 31.3.2012
AT THE CHAMBERS OF THE 3RD RESPONDENT.**

**EXT. P4(A): TRUE COPY OF THE REPORT BEARING NO.TA(2)2572/2012 DTD.4.4.2012,
SUBMITTED BY THE PRINCIPAL AGRICULTURAL OFFICER.**

**EXT. P5 : TRUE COPY OF THE REPORT BEARING NO.323/C2/TDO/2012 DTD.16.2.2012
SUBMITTED BY THE GEOLOGIST, THRISSUR.**

**EXT. P6 : TRUE COPY OF THE REPORT BEARING NO.DGT/384/2012 DTD.16.2.2012
SUBMITTED BY THE DISTRICT OFFICER, GROUND WATER DEPARTMENT.**

**EXT. P7 : TRUE COPY OF THE REPORT BEARING NO.PCB/TSR/GEN/87/2011
DTD.18.2.2012, SUBMITTED BY THE ENVIRONMENTAL ENGINEER, KERALA
STATE POLLUTION CONTROL BOARD.**

EXT. P8 : TRUE COPY OF THE ORDER BEARING NO.B3-16225/2012 DTD.17.4.2012.

EXT. P9 : TRUE COPY OF THE COUNTER AFFIDAVIT DTD.19.2.2013.

EXT. P10: TRUE COPY OF THE SAID PETITION DTD.18.3.2013.

EXT. P11: TRUE COPY OF THE JUDGMENT DTD.22.5.2013 IN WPC NO.12475/2012.

EXT. P12: TRUE COPY OF THE ORDER BEARING NO.B3-16225/2013 DTD.27.9.2013.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

P.R.RAMACHANDRA MENON, J.

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Dated this the 6th day of February, 2015

JUDGMENT

The petitioners have approached this Court seeking the following reliefs:

- i. Declare that the properties comprised in Sy Nos.696, 699, 701, 702, 703, 706, 707, 715, 716, 717, 721, 732, 733, 734, 735, 737, and 739 in Marathakara Village, Thrissur Taluk and covered by Ext.P1 and P1 (a) consent letters are not properties within the meaning of "paddy land" as defined under section 2 (xii) of Kerala Conservation of Paddy Land and Wet Land Act, 2008 and therefore the provisions of the said Act are not applicable to the aforesaid lands,*
- ii. Issue a writ of certiorari or any other appropriate writ or order quashing Ext.P12 order to that extent it imposes conditions to the effect that the petitioners shall carry out fish farming in the said properties, only during intermediary period between two paddy seasons and shall mandatorily carry out paddy cultivation in the said properties*
- iii. Issue a writ of mandamus or any other appropriate writ order directing the respondents to grant permission to the petitioner to remove the soil from the properties covered by Ext.P1 and P1(a) and to conduct fish farming therein,*

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iv. Issue a writ of mandamus or any other appropriate writ or order directing the 5th respondent to take appropriate action upon Ext.P10 application submitted by the petitioners for removal of their properties from the data bank.

2. The learned counsel for the petitioners submits that the property concerned herein is actually not a paddy land or wet land as defined under section 2(xii) and 2(xviii) of Act 28 of 2008. It is also pointed out that the land is not fit for paddy cultivation and no cultivation was being effected in the said property for decades as evident from Ext.P8. The learned counsel submits that the petitioners have moved the fifth respondent by filing Ext.P10 for removing the property of the petitioners from the data bank register and that the petitioners will be satisfied if a direction is given to the the said respondent to cause the matter to be considered by the Local Level Monitoring Committee and do the needful within a reasonable time.

3. Heard the learned Government Pleader as well.

4. In the above circumstances, the fifth respondent is directed to forward Ext.P10 to the Convener of the Local Level Monitoring Committee forthwith at any rate within one week;

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upon which the same shall be caused to be considered and appropriate orders shall be passed by the above Committee, in accordance with the relevant provisions of law, after conducting a site inspection with notice to the petitioners. The proceedings as above, shall be finalized, at the earliest and at any rate within two months from the date of receipt of a copy of this judgment.

5. The rights and liberties of the petitioners, to have Ext.P12 to be reconsidered, will depend upon the outcome of the order to be passed by the Local Level Monitoring Committee.

The petitioners shall produce a copy of this judgment along with a copy of the writ petition before the concerned respondent for further steps.

Sd/-

**P.R.RAMACHANDRA MENON,
JUDGE.**

rkc.