

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF FEBRUARY 2015/6TH PHALGUNA, 1936

WP(C).No. 1908 of 2015 (K)

PETITIONER :

**T.T. JOSEPH, AGED 69 YEARS
S/O.THOMAS, THOTTATHIL HOUSE, KOTTAT P.O.,
WEST CHALAKUDY, THRISSUR DISTRICT.**

**BY SENIOR ADVOCATE SRI.RENJITH THAMPAN
SMT.P.R.REENA**

RESPONDENT :

**REVENUE DIVISIONAL OFFICER
OFFICE OF THE REVENUE DIVISIONAL OFFICER, AYYANTHOLE
THRISSUR, PIN - 680 003.**

BY SPL. GOVT. PLEADER SRI. P.K. SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 1908 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

**EXHIBIT P1 TRUE COPY OF THE BASIC TAX RECEIPT DATED 16-09-2014 ISSUED
BY THE VILLAGE OFFICER.**

EXHIBIT P2 PHOTOGRAPH SHOWING THE PETITIONER'S PROPERTY.

**EXHIBIT P3 TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE
THE RESPONDENT DATED 02-01-2015.**

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.1908 OF 2015
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Dated this the 25th February, 2015

J U D G M E N T

The petitioner is the owner of the property having an extent of 1 acre 20 cents of land in Sy.No.762, 761, 760 and 764 of Chalakkudy Village having obtained it by virtue of Partition Deed No.3912/1989 of SRO, Chalakkudy. He is aggrieved of classification of the said property as 'Nilam' in the revenue records, though the property is a garden land with large number of usufructs like Coconut trees, mango trees, areca nut trees etc. and further that the Local Level Monitoring Committee has already certified that the property is not a paddy land. It is stated that the actual nature of the property is discernible from Ext.P2 photograph. With intent to utilise the land for other beneficial purposes, though the petitioner submitted Ext.P3 application before the respondent /RDO, the same is refused to be acted upon. Hence this writ petition.

2. Heard the learned Government Pleader as well.

3. The legal position has been made clear by this Court as per the decision in **Jafarkhan vs.Kochumarakkur (2012 (1) KLT 491)**, whereby it has been held that if the property was not

lying as a 'paddy land' or 'wet land' as defined under Section 2 (xii) or 2(xviii) of the Act 28 of 2008 as on the date of commencement of the said Act, it does not have any application at all. Under such circumstance, the claim of the petitioner, if at all any, to permit him to make use of the property for other purposes than agricultural purpose is liable to be entertained in the light of Clause 6 of the Kerala Land Utilisation Order, which is the law declared by this Court as per the decision in **Praveen vs. Land Revenue Commissioner (2010 (2) KLT 617)** and the competent authority to deal with the issue is the District Collector(second respondent herein).

4. In the above facts and circumstances, the petitioner is relegated to approach the respondent/District Collector by filing a petition under Clause 6 of the Kerala Land Utilisation Order, so as to enable the petitioner to make use of the property for other purposes than agricultural purposes within two weeks from the date of receipt of a copy of this judgment. If any such application is filed, the same shall be considered and appropriate orders shall be passed after affording an opportunity of hearing to the petitioner with reference to the actual facts and figures in

the light of the decision in **Praveen vs. Land Revenue Commissioner (2010 (2) KLT 617)** and also the decision in **Revenue Divisional Officer vs. Jalaja Dileep (2014(1) KLT 161)**; and **also after conducting necessary site inspection and getting a report from the concerned Local Level Monitoring Committee as to whether the property has been included in the Draft Data Bank or not.** The proceedings, as above, shall be finalised, at the earliest, at any rate, within six weeks thereafter. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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