

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 2364 of 2015 (U)

PETITIONERS:-

- 1. PALLIKKAL ABDUL MUNEER,
S/O.ABOOBACKER, KOTTUKARA, KONDOTTY,
MALAPPURAM DISTRICT.**
- 2. PALLIKAL ASKAR ALI,
S/O.ABOOBACKER, KOTTUKARA, KONDOTTY,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH**

RESPONDENT :

**THE REVENUE DIVISIONAL OFFICER,
TIRUR, MALAPPURAM DISTRICT, PIN - 676 101.**

BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 2364 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1. TRUE COPY OF THE RELEVANT PAGE OF THE DATA BANK
MAINTAINED IN THE NEDIYIRIPPU VILLAGE.**
- EXHIBIT P2. TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1ST
PETITIONER BEFORE THE RESPONDENT DATED 29.11.2014.**
- EXHIBIT P3. TRUE COPY OF THE APPLICATION SUBMITTED BY THE 2ND
PETITIONER BEFORE THE RESPONDENT DATED 29.11.2014.**
- EXHIBIT P4. TRUE COPY OF THE LETTER SENT BY THE RESPONDENT TO THE 1ST
PETITIONER DATED 15.12.2014.**
- EXHIBIT P5. TRUE COPY OF THE LETTER SENT BY THE RESPONDENT TO THE 2ND
PETITIONER DATED 15.12.2014.**

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. 2364 OF 2015
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Dated this the 3rd February, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

"i) call for the records leading upto Exhibits P4 and P5 and quash the same by the issuance of a writ of certiorari or any other appropriate writs, orders or directions:

ii) issue a writ of mandamus or any other appropriate writs, orders or directions commanding the respondent to consider Exhibits P2 and P3 applications as per the provisions of the Kerala Land Utilization Order;

iii) issue a writ of mandamus or any other appropriate writs, orders or directions commanding the respondent to grant permission for construction of residential houses to the petitioner under Clause 6 of the Kerala Land Utilization Order;

iv) Grant such other reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. The learned Counsel for the petitioners submits that the property of the petitioners was reclaimed much prior to the commencement of the Act 28 of 2008 and that the same has not

been categorised either as paddy land or wet land as evident from the entries in Ext.P1 Data Bank Register. It was in the said circumstance that the petitioners moved the respondent/RDO by filing Exts.P2 and P3 applications for granting permission for making use of the properties for other purposes than agricultural purposes in terms of Clause '6' of the KLU. But the same came to be rejected as per Exts.P4 and P5, instructing the petitioners to approach the Agricultural Officer to have the matter considered under the relevant provisions of the Act 28 of 2008.

3. Heard the learned Government Pleader as well.

4. 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 petitioners, if at all any, to permit them 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 in the party array is the District Collector(second respondent herein).

After hearing both the sides, this Court finds that Exts.P2 and P3 applications preferred by the petitioners require to be re-considered by the competent authority in terms of Clause '6' of the KLU. Accordingly, Exts. P4 and P5 are set aside and the competent authority is directed to re-consider the matter, after affording an opportunity of hearing to the petitioners and also calling for a report from the Agricultural Officer, concerned, at the earliest, at any rate, within six weeks 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 second respondent/competent authority for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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