

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 2439 of 2015 (D)

PETITIONER(S) :

**MEKADAN AZEEZ, AGED 49 YEARS,
S/O.ABDULLAH, 4/343, PUTHENKUNN,
SULTHAN BATHERY, WAYANAD DISTRICT. PIN-673 595.**

BY ADV. SRI.RAFFEEKH.K

RESPONDENT(S) :

- 1. THE TAHSILDAR,
SULTHAN BATHERY TALUK, SULTHAN BATHERY,
WAYANAD DISTRICT, PIN-673 592.**
- 2. THE VILLAGE OFFICER,
NOOLPUZHA VILLAGE OFFICE, SULTHAN BATHERY,
WAYANAD DISTRICT, PIN-673 595.**
- 3. THE DISTRICT COLLECTOR,
WAYANAD, CIVIL STATION.P.O., KALPETTA,
WAYANAD, PIN-673 121.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE PATTA DATED 01.01.1970 OF
THE PETITIONER'S LAND.**

**EXHIBIT P2: TRUE COPY OF THE APPLICATION DATED 03.07.2013 SUBMITTED
BEFORE THE 1ST RESPONDENT.**

**EXHIBIT P3: TRUE COPY OF THE REPORT OF THE 2ND RESPONDENT
DATED 24.09.2013.**

EXHIBIT P4: TRUE COPY OF THE BASIC TAX REGISTER DATED 19.12.2014.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2439 of 2015

Dated this the 12th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"a). Issue a writ of mandamus or any other appropriate writ, order or direction to the 1st respondent to consider and pass orders on Ext.P2 within a time frame that my stipulated by this Hon'ble Court.

b). Issue a writ of mandamus or any other appropriate writ, order or direction to the 1st respondent to reclassify 0.31 Are 65 Squire meter of land in old Sub Division No. 1 1A1, Old Survey No.474, Re-survey Sub Division No.4, Re-survey No.15, Re-survey Block No.33, Noolpuzha Panchayat, Sulthan Bathery Village, Sulthan Bathery Taluk, Wayanad District as 'dry land' in the village records.

c) Such other reliefs that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The case of the petitioner is that, the property is actually lying as a converted land and is never lying as a 'paddy land' or 'wet land' as defined under Sections 2(xii) and 2(xviii) of the Act 28 of 2008 as on the date of commencement of the said Act. This

being the position, the petitioner is entitled to have the revenue records to be corrected with reference to the physical nature of the property. Reference is made to various judgments rendered by this Court at different points of time, including in Jalaja Dileep's case. It is true that, the said decision was affirmed by the Division Bench of this Court as per the decision rendered by the Division Bench of this Court as per **(Revenue Divisional Officer Vs. Jalaja Dileep) [2014 (1) KLT 161]**. But the said verdict passed by the Division Bench came to be set aside by the Apex Court as per the judgment dated 10.03.2015 reported in **Revenue Divisional Officer Vs. Jalaja Dileep (2015 (1) KLT 984 (SC)**, holding that the BTR cannot be corrected or any such direction could be issued in this regard with reference to the power under Section 18 of the Kerala Land Tax Act or such other provisions of law. However, in respect of the lands which were already converted prior to the commencement of Act 28 of 2008, it has been held that the provisions of the said Act are not applicable and the cause open is to have the matter considered under the Kerala Land Utilisation Order. In the said

circumstances, the parties are set at liberty to approach the competent authority with reference to the provisions of Kerala Land Utilisation Order, for appropriate reliefs.

In the light of the ruling rendered by the Apex Court as above, interference is declined and the writ petition is dismissed, without prejudice to the petitioner to pursue the matter as aforesaid.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

sp