

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

WP(C).No. 2483 of 2015 (I)

PETITIONER :

**SURESH KUMAR, AGED 54 YEARS,
S/O. BARATHAN, PAYYAPPATTU, NATTIKA P.O.,
NATTIKA VILLAGE, CHAVAKKAD TALUK, THRISSURE DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS :

- 1. REVENUE DIVISIONAL OFFICER (R.D.O)
THRISSUR, THRISSUR DISTRICT - 680 001.**
- 2. THE DISTRICT COLLECTOR,
THRISSUR, CIVIL STATION, THRISSUR DISTRICT - 680 001.**
- 3. THE VILLAGE OFFICER,
NATTIKA VILLAGE, THRISSUR DISTRICT - 680 001.**

BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE TITLE DEED DT. 31.10.66 NO. 1262/66 OF THRIPPARAYAR SUB REGISTRAR OFFICE.
- P2: TRUE COPY OF THE TAX RECEIPT DT. 04.11.14 ISSUED BY THE NATTIKA VILLAGE OFFICER.
- P3: TRUE COPY OF THE LOCATION CERTIFICATE DT. 30.10.13 ISSUED BY THE NATTIKA VILLAGE OFFICER.
- P4: TRUE COPY OF THE SITE PLAN DT. 30.10.13 ISSUED BY THE NATTIKA VILLAGE OFFICER.
- P5: TRUE PHOTOGRAPHS OF THE PROPERTY OF PETITIONER.
- P6: TRUE COPY OF THE RELEVANT PAGES OF DRAFT DATA BANK ISSUED BY THE VILLAGE OFFICER, NATTIKA VILLAGE.
- P7: TRUE COPY OF THE APPLICATION DT. 19.12.14 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT WITH COPY TO THE SECOND RESPONDENT UNDER THE PROVISIONS OF THE KERALA LAND UTILIZATION ORDER, 1967.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 2483 of 2015

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Dated, this the 30th day of January, 2015

JUDGMENT

The petitioner is stated as owner of the property having an extent of 46.94 Ares of properties consisting in Sy Nos. 15/6 and 175/9 of Nattika village. According to the petitioner, the said land is neither a 'paddy land', nor a 'wet land' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008, though it has been described as 'Nilam' in the revenue records. It is stated that in the Draft Data Bank published by the respondents, the property of the petitioner is not included as paddy land or wet land and it has been shown as a 'reclaimed land'. Though the petitioner has approached the first respondent by filing Ext. P7 representation under Clause 6 of the Kerala Land Utilization Order, seeking permission to use the land for other purposes than agricultural purpose, the same is still to be considered, which made the petitioner to approach this Court by filing the present writ petition.

2. Heard the learned Government Pleader as well

3. The law has been declared as per the decision rendered in

JafarKhan Vs. K.A. Kochumarakkar & Ors. [2012 (1) KHC 523]

that the provisions of the Conservation of Kerala paddy land and Wet land Act are applicable only in respect of the land which were lying as 'paddy land' or 'wet land' as on the date of commencement of the 'Act'. It has been further asserted by another learned Judge of this Court in **Asharaf K.K. And Ors Vs. Eramala Grama Panchayath and Ors (2012 (3) KLT 323)** that if the land is not included in the Data Bank Register prepared under the Act, it cannot be classified as 'paddy land' or 'wet land'. It has been declared by a Division Bench of this Court in **Praveen Vs. Land Revenue Commissioner (2010 (2) KLT 617)** that, if the property concerned is not a paddy land or wet land, the application if any preferred, is to be considered under the relevant provisions of the Kerala Land Utilization Order, so as to enable the party concerned to make use of the property for other appropriate purpose. It has been further made clear by a Division Bench of this Court in **Sunil Vs. Killimangalam Panchal 5th Ward Nellulpadaka Samootham (2012 (4) KLT 511)** that the land reclaimed prior to the commencement of the relevant Act can be made use of, even for 'Industrial purpose'

4. In the said circumstances, the first respondent is directed to consider and pass appropriate orders on Ext. P7 after getting

report from the Convener of the Local Level Monitoring Committee and in the light of the observations made by this Court in the decisions cited supra. This shall be done after giving an opportunity of hearing to the petitioner, at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the first respondent for further steps.

Sd/-

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

kmd