

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C) .No. 2769 of 2015 (U)

PETITIONER(S) :

RAJASEKHARAN PILLAI,
SON OF NARAYANAN NAIR, RAJESH VILLA,
U.C.COLLEGE P.O.,
ERNAKULAM - 683 102.

BY ADV. SRI.S.M.PREM.

RESPONDENT(S) :

1. THE REVENUE DIVISIONAL OFFICER,
FORTKOCHI - 682 001.
2. THE VILLAGE OFFICER,
KADUNGALLOOR VILLAGE, MUPATHADAM P.O.,
ERNAKULAM - 683 110.

BY SENIOR GOVERNMENT PLEADER SRI. JOSEPH GEORGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1: TRUE COPY OF THE APPLICATION DATED 20/12/2014 SUBMITTED
BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT. P2: TRUE COPY OF THE RECEIPT ISSUED BY KADUNGALLOOR GRAMA
PANCHAYAT ON PAYMENT OF PROPERTY TAX BY THE PETITIONER.

EXT. P3: TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF
KADUNGALLOOR VILLAGE ON PAYMENT OF BASIC TAX FOR
PROPERTY BY THE PETITIONER.

EXT. P4: TRUE PHOTOGRAPH OF THE PETITIONER'S PROPERTY WITH
BUILDING.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON J.

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Dated, this the 28th day of January, 2015

JUDGMENT

The petitioner is stated as the owner of the property having an extent of 71.5 cents comprised in Survey Nos 246/8A, 246/11A and 246/11C of Kodungalloor village in Paravur taluk. The case of the petitioner is that the said property is a 'dry land', having reclaimed decades ago, and that the same is not liable to be described as 'paddy land' or 'wet land' as contemplated under Act 28 of 2008.

2. The learned counsel counsel for the petitioner submits that since the property stands described as 'Nilam' in the Revenue records, the petitioner was constrained to file Ext. P1 representation before the first respondent for change of classification. Ext. P1 is the photograph showing the nature of the land. The learned counsel for the petitioner submits that the only prayer now pressed before this Court is to cause Ext. P1 to be considered by the first respondent.

3. Heard the learned Government Pleader as well, who submits on instructions, that the property in question is shown as 'nilam' in the Data Bank Register.

4. 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 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 to make use of the property for any purpose other than appropriate purpose.

5. In the said circumstances, the first respondent is directed to finalize the proceedings pursuant to Ext. P1 representation preferred by the petitioner under Clause 6 of the Kerala Land Utilization Order, after getting report from the concerned Agricultural Officer. The proceedings as above shall be finalized in accordance with law, after hearing, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this

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: 3 :

judgment.

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

The Writ Petition is disposed of.

Sd/-

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

kmd