

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WP(C).No. 5704 of 2013 (K)

PETITIONER(S):

**BHARGAVAN NAIR,
S/O.CHANDRASEKHARA PILLAI, SANNITHI GRAMAM
JENARDHANAPURAM, VARKKALA, THIRUVANANTHAPURAM.**

BY ADV. SRI.C.RAJENDRAN

RESPONDENT(S):

- 1. DISTRICT COLLECTOR
COLLECTORATE, KUDAPANAKKUNNU
THIRUVANANTHAPURAM 690 543.**
- 2. THE COMMISSIONER
LAND REVENUE, SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 3. TAHSILDAR
TALUK OFFICE, CHIRAINKEEZHU
THIRUVANANTHAPURAM 695 304.**
- 4. VILLAGE OFFICER
VARKALA VILLAGE, VARKALA, THIRUVANANTHAPURAM 695 141.**
- 5. VARKALA MUNICIPALITY
VARKALA, THIRUVANANTHAPURAM 695 141,
REPRESENTED BY ITS SECRETARY.**
- 6. THE AGRICULTURAL FILED OFFICER
KRISHIBHAVAN, VARKALA, THIRUVANANTHAPURAM 695 141.**

**R1-4 & 6 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN
R5 BY ADV. SRI.G.S.REGHUNATH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1. TRUE PHOTOCOPY OF THE REPORT DATED 28.09.2007.**
- EXHIBIT P2. TRUE PHOTOCOPY OF THE REPORT DATED 23.11.2007.**
- EXHIBIT P3. TRUE PHOTOCOPY OF THE REPROT DATED 05.01.2008.**
- EXHIBIT P4. TRUE PHOTOCOPY OF THE JUDGMENT DATED 25.10.2011.**
- EXHIBIT P5. TRUE PHOTOCOPY OF THE REPLY DATED 21.02.2012.**
- EXHIBIT P6. TURE PHOTOCOPY OF THE ORDER OF THE DISTRICT COLLECTOR
DATED 13.06.2011.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.5704 of 2013

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Dated this the 2nd day of March, 2015

JUDGMENT

The petitioner has approached this Court seeking the following prayers:

- a) To call for the records leading to Ext.P6 and quash the same by the issuance of the writ in the nature of the Certiorari or any other writ, order or direction.
- b) To issue writ in the nature of the Mandamus or any other appropriate writ order or direction compelling and commanding the respondents 1 and 2 to give land development permit to the petitioner for the landed properties with immediate effect.
- c) To declare that the landed properties are packa garden land and there is no impediments in giving land development permit to it.
- d) To grant such other reliefs in the interest of justice.

2. The learned counsel for the petitioner points out that the property is not a paddy land or wet land as defined under Section 2 (xii) or 2(xviii) of Paddy Land And Wet Land Act, 2008 having effected the reclamation years back. However, simply stating that the property is a paddy land, development permit is not being issued

to the petitioner by virtue of which, irreparable loss and injury is being caused to him and hence, the writ petition.

3. The learned counsel for the petitioner points out that even according to the respondents, out of the total extent of 66.95 Ares, only an extent of 10 cents is stated as 'nilam', which by itself is not correct and the true fact will be brought out, if physical nature of the property is verified. The prayer is to cause the matter to be considered by the 1st respondent after causing a spot inspection to be conducted, also ascertaining the other relevant facts, if any. The learned counsel also points out that the Municipality has been impleaded in the party array only as a formal party and no relief is sought against the Municipality for the time being.

4. After hearing both the sides, the writ petition is disposed of, directing the 1st respondent to cause an inspection to be arranged with notice to the parties concerned including the Municipality and ascertain the physical nature of the property whether it was lying as a 'paddy land' or 'wet land' as on the date of commencement of the Paddy Land And Wet Land Act, 2008. If a finding is arrived at that the property was not a paddy land or

wet land as per the date of commencement of the Paddy Land And Wet Land Act, 2008, provisions of Act 28 of Paddy Land And Wet Land Act, 2008 are not attracted in view of the law declared by this Court as per the decision reported in **Jafarkhan v K.A Kochumarakkar and Others (2012(1) KLT 491)**. On such an event, the petitioner will be entitled to have the development permit and hence the first and second respondents are directed to issue land development permit to the petitioner at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first and second respondents for further steps.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

vdv