

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 3262 of 2015 (G)

PETITIONER :

**CHANDRAMOHAN, AGED 59 YEARS,
S/O.KRISHNA PILLAI, CHANDRIMA, PODIYADI P.O.,
THIRUVALLA.**

BY ADV. SRI.S.NIDHEESH

RESPONDENT :

- 1. THE REVENUE DIVISIONAL OFFICER,
THIRUVALLA-689 101.**
- 2. THE TAHSILDAR,
TALUK OFFICE, THIRUVALLA-689 101.**

R1 & R2 BY SENIOR GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

WP(C).No. 3262 of 2015 (G)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE SALE DEED DATED 14/7/1997.**
- EXT.P2: TRUE COPY OF THE SALE DEED DATED 10/6/1999**
- EXT.P3: TRUE COPY OF THE SALE DEED DATED 31/5/2001.**
- EXT.P4: TRUE COPY OF THE SALE DEED DATED 31/5/2001.**
- EXT.P5: TRUE COPY OF THE DATA BANK DETAILS.**
- EXT.P6: TRUE COPY OF THE REQUEST TO THE 2ND RESPONDENT
 DATED 7/1/2014.**
- EXT.P7: TRUE COPY OF THE REQUEST TO THE 1ST RESPONDENT
 DATED 5/1/2015.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3262 of 2015

Dated this the 4th day of February, 2015

JUDGMENT

The petitioner is stated as owner of the properties having an extent of 56.65 Ares in Sy No.222/2, 16.19 Ares, 14.38 Ares and 20.63 Ares in Sy. No.222/1 of Thiruvalla Village. According to the petitioner, the said lands are neither 'paddy lands', nor 'wet lands' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008, though they have been described as 'Nilam' in the revenue records. It is stated that in the Draft Data Bank published by the respondents, the properties of the petitioner are not included as paddy lands or wet lands. 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 lands 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 Samooham (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 in the light of the observations made by this Court in the decisions cited supra and also after obtaining a report from the Agricultural Officer. 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.

The writ petition is disposed of.

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

sp