

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 4254 of 2015 (F)

PETITIONER(S):

1. DAVIS, AGED 40,
S/O.VARKEY, VALOORAN HOUSE, PALACHUVADU,
KAKKANAD P.O., KOCHI-682 030, ERNAKULAM DISTRICT.
2. RAJU JACOB, AGED 39,
S/O.CHACKO, CHOORAPPADIL HOUSE, MANIMALA VILLAGE,
POOVATHOLI P.O., KARIKATTOOR KARA, KANJIRAPPILLY TALUK,
KOTTAYAM DISTRICT.

**BY ADVS.SRI.VINCENT RAPHAEL
SRI.K.H.ASHARAF
SRI.P.J.JOSE**

RESPONDENT(S):

1. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, CIVIL STATION, KAKKANAD P.O.,
KOCHI-682 030.
2. THE REVENUE DIVISIONAL OFFICER,
FORTKOCHI-682 002, ERNAKULAM DISTRICT.
3. TAHSILDAR,
TALUK OFFICE, ALUVA TALUK, ERNAKULAM - 683 101.
4. THE NEDUMBASSERY PANCHAYATH,
REPRESENTED BY ITS SECRETARY, O/O.NEDUMBASSERY PANCHAYATH,
KARYAD, NEDUMBASSERY VILLAGE, ERNAKULAM DISTRICT.
5. THE VILLAGE OFFICER,
NEDUMBASSERY VILLAGE, KARYAD, NEDUMBASSERY,
P.O., ERNAKULAM - 683 580.
6. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, NEDUMBASSERY, MEKAD P.O.,
683 589.

**R1 TO R3, R5 & R6 BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE
R4 BY SRI.GEORGE SEBASTIAN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT. P1:- TRUE PHOTOCOPY OF THE SALE DEED NO 1629/2007 OF SRO CHENGAMANAD DTD 26/2/2007.
- EXT. P2:- TRUE PHOTOCOPY OF DEED NO 5290/2005 OF SRO CHENGAMANAD DTD 6/10/2005.
- EXT. P3: TRUE PHOTOCOPY OF BASIC TAX RECEIPT NO 4227056 DTD 26/11/2009 FOR THE YEAR 2009-2010 ERRONEOUSLY DESCRIBING THE PROPERTY AS NILAM (WET LAND).
- EXT. P4 SERIES:-PHOTOGRAPHS OF THE SUBJECT LAND.
- EXT. P5:- TRUE PHOTOCOPY OF REPRESENTATION SENT TO RDO BY THE PETITIONERS DTD 26/8/2013.
- EXT. P6:- TRUE PHOTOCOPY OF ACKNOWLEDGMENT OF RECEIPT OF EXT P5 REPRESENTATION BY THE OFFICE OF.
- EXT. P7:- TRUE PHOTOCOPY OF THE JUDGMENT DTD 18/6/2014 IN WPC NO 23094/2013 (J).
- EXT. P8:- TRUE PHOTOCOPY OF APPLICATION DTD 4/7/2014 BEFORE THE LLMC.
- EXT. P9:- TRUE PHOTOCOPY OF RECEIPT DTD 10/11/2014 ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN NEDUMBASSERY.
- EXT. P10:- TRUE PHOTOCOPY OF REPORT OF THE VILLAGE OFFICER DTD 28/9/2013.
- EXT. P11:- TRUE PHOTOCOPY OF LETTER DTD 20/8/2014 ISSUED BY THE AGRICULTURAL OFFICER, NEDUMBASSERY.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.4254 of 2015

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Dated this the 10th day of February, 2015

JUDGMENT

The case of the petitioner is that the land having an extent of 38 ares 23 Sq.Meter in Re.Sy.No.64/7 (old Sy.No.532/9) Block No.9 of Nedumbassery village, Vapalassery Kara, Aluva Taluk, Ernakulam District belonging to the petitioner covered by Exts.P1 and P2 sale deeds is not a paddy land or wet land as defined under Section 2(XII) or 2(XVIII) of the Paddy Land and Wet Land Act 2008. However, it came to be wrongly included in data bank register and, hence, the petitioner approached this Court by filing W.P.(C) No.23094 of 2013 for appropriate reliefs. The said writ petition was disposed of as per Ext.P7 judgment directing the petitioner to move the Local Level Monitoring Committee, simultaneously giving appropriate directions to the said Committee to have the matter considered and finalised in accordance with law. Pursuant to Ext.P7

judgment, the petitioner submitted Ext.P8 application before the Local Level Monitoring Committee. But, the petitioner has been let known as per Ext.P11 dated 20.08.2014 by the 6th respondent that the proceedings to publish the data bank in the concerned panchayath have already attained finality and as such, the application could not be considered for the time being, at the same time assuring that it will be considered as and when further changes are sought to be effected. This made the petitioner to approach this Court by filing this writ petition.

2. Heard the learned Government Pleader appearing for respondents 1 to 3 , 5 and 6 and the learned Standing Counsel appearing for the 4th respondent panchayath as well. During the course of hearing, it is brought to the notice of this Court that the law has been made clear by a Division Bench of this Court as per the decision reported in **Adani Infrastructure and Developers Private Ltd. Vs State of Kerala (2015(1) KLT 651)**. In the light of the

ruling rendered by the Division Bench as above, the learned Government Pleader submits that Ext.P8 application preferred by the petitioner would be positively considered and that appropriate orders to be passed within the shortest possible time.

3. In the above circumstance, the writ petition is disposed of, directing the concerned respondent to consider and pass appropriate orders on Ext.P8 in accordance with law, after affording an opportunity of hearing to the petitioner at the earliest, at any rate, within 'three 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 concerned respondent for further steps.

Sd/-

P.R.RAMACHANDRA MENON, JUDGE

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