

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 4548 of 2015 (P)

PETITIONERS:-

1. WILSON PAUL, S/O.P.T.PAULOSE,
PARUTHUVAYALIL HOUSE, KEEZHILLAM P.O.,
ERNAKULAM DISTRICT.
2. THOMAS MATHEW, HOUSE NO.20,
DARSANAGIRI COLONY, CHANDRANAGAR P.O.,
PALAKKAD.
3. RAJESH THAMPY, S/O.K.M.THAMPY,
KOCHUPARAMBIL, MANNATHUR P.O.,
ERNAKULAM DISTRICT.
4. T.T.RAJAN, S/O.THARU,
THOMPRA HOUSE, PULLUVAZHY P.O.,
ERNAKULAM DISTRICT.
5. N.P.AJAYAKUMAR,
S/O.PRABHAKARAN NAIR, "KRISHNAVILASAM"
VALAYANCHIRANGARA P.O., ERNAKULAM DISTRICT.

BY SRI.K.JAJU BABU, SENIOR ADVOCATE.
ADVS. SMT.M.U.VIJAYALAKSHMI,
SRI.BRIJESH MOHAN.

RESPONDENTS:-

1. THE VILLAGE OFFICER, KODUMBU,
KODUMBU P.O, PALAKKAD - 678 551.
2. THE TAHSILDAR,
TALUK OFFICE, PALAKKAD - 678 001.

BY GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 05.08.2014 IN WP(C)NO.17649/2014.
- EXHIBIT P2. COPY OF THE ORDER NO.J.1432/12/K.DIS., DATED 17.12.2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER IN PURSUANCE OF EXT.P1 JUDGMENT IN RESPECT OF 1ST PETITIONER.
- EXHIBIT P3. COPY OF THE ORDER NO.J.1431/12/K.DIS., DATED 17.12.2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER IN PURSUANCE OF EXT.P1 JUDGMENT IN RESPECT OF 2ND PETITIONER.
- EXHIBIT P4. COPY OF THE ORDER NO.J.1434/12/K.DIS., DATED 17.12.2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER IN PURSUANCE OF EXT.P1 JUDGMENT IN RESPECT OF 3RD PETITIONER.
- EXHIBIT P5. COPY OF THE ORDER NO.J.1430/12/K.DIS., DATED 17.12.2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER IN PURSUANCE OF EXT.P1 JUDGMENT IN RESPECT OF 4TH PETITIONER.
- EXHIBIT P6. COPY OF THE ORDER NO.J.1435/12/K.DIS., DATED 17.12.2014 ISSUED BY THE REVENUE DIVISIONAL OFFICER IN PURSUANCE OF EXT.P1 JUDGMENT IN RESPECT OF 5TH PETITIONER.
- EXHIBIT P7. COPY OF THE APPLICATION DATED 10.01.2015 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P8. COPY OF THE APPLICATION DATED 10.01.2015 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P9. COPY OF THE APPLICATION DATED 10.01.2015 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P10. COPY OF THE APPLICATION DATED 10.01.2015 SUBMITTED BY THE 4TH PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P11. COPY OF THE APPLICATION DATED 10.01.2015 SUBMITTED BY THE 5TH PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4548 of 2015

Dated this the 6th day of March, 2015

JUDGMENT

The case of the petitioner is that, the property belonging to the petitioner is actually a 'dry land' and not a 'paddy land' or 'wet land' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008. It is also stated that, the property has been shown as a converted land even in the Data Bank Register. On filing a petition for appropriate relief under KLU, since the matter was not considered, the petitioner was constrained to approach this Court by filing WP(C) No.17649 of 2014, which was considered and disposed of as per Ext.P1 judgment, directing the RDO to pass appropriate orders. Exts.P2 to P6 orders have been passed by the RDO, wherein specific observation has been made to the effect that the property was not being cultivated for more than 50 years and that the same is not included in the Data Bank Register as a 'paddy land'. It is in the said circumstances that,

the petitioner has moved the first respondent by filing Exts.P7 to P11 applications for effecting necessary changes in the BTR. The delay in considering the same made the petitioner to approach this Court again by filing this writ petition.

2. A statement has been filed on behalf of the first respondent as to the sequence of events and as to the nature of the property concerned. The factual position is not disputed, but the respondents rather lament about their incompetence or absence of jurisdiction dealing with the issue, so as to redress the grievance. It is also made a mention that the positive direction given by this Court as per the decision reported in **2014 (1) KLT 161 (Revenue Divisional Officer Vs. Jalaja Dileep)** is pending consideration before the Apex Court in SLP(C) No.3172 of 2014.

3. Heard the learned Government Pleader as well.

4. After hearing both the sides, this Court finds that the property concerned does not come within the purview of Act 28 of 2008 and as such, necessary records are required to be corrected in view of the law declared by the Division Bench of this Court, as per the decision cited supra.

5. In the said circumstances, there will be a direction to the first respondent to forward Exts.P7 to P11 applications to the second respondent forthwith, at the earliest, at any rate, within 'two weeks' from the date of receipt of a copy of this judgment, upon which, further steps shall be pursued by the second respondent to cause the BTR to be corrected, which shall be done at the earliest, at any rate, within 'two weeks' thereafter. It is made clear that, this will be subject to the outcome of the verdict passed by the Apex Court in the SLP as mentioned above and also in the light of the contents of Exts.P2 to P6 orders.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondents, for further steps.

The writ petition is disposed of.

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

sp