

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No.4642 of 2015 (E)

PETITIONER:

**DR.A.K.BALACHANDRAN,S/O.KUNJAYYAN,
AGED 62 YEARS,AMBAT HOUSE,KALADY,
ERNAKLULAM DISTRICT-683574.**

**BY ADVS.SRI.N.RATHEESH
SMT.SUMA RATHEESH**

RESPONDENT'S:

- 1. THE STATE OF KERALA,
REPRESENTED BY THE LAND BOARD COMMISSIONER,
OFFICE OF THE COMMISSIONERATE OF LAND BOARD,
THIRUVANANTHAPURAM-695 001.**
- 2. THE TAHSILDAR,TALUK OFFICE,ALUVA TALUK,
TALUK OFFICE,ALUVA-683 101.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.4642 of 2015 (E)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF THE SKETCH OF THE PROPERTY.

EXHIBIT P2:TRUE COPY OF THE TAX RECEIPT DATED 30.4.2014.

EXHIBIT P3:TRUE COPY OF THE TAX RECEIPT DATED 9.10.2014.

EXHIBIT P4:TRUE COPY OF THE DATA BANK PREPARED BY THE R1.

EXHIBIT P5:TRUE COPY OF THE REPRESENTATION DATED 14.11.2014.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.4642 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent to consider and dispose of Ext.P5 representation at the earliest and within a definite time frame as fixed by this Honourable Court; and

ii. Pass such other orders as this Honourable Court may deem fit and proper in the interest of justice and in the facts and circumstances of the case."

2. Heard the learned counsel for the petitioner as well as the learned Senior Government Pleader appearing for the respondents.

3. The case of the petitioner is that, the property is actually lying as a converted land and is never lying as a 'paddy land' or 'wet land' as defined under Sections 2(xii) and 2(xviii) of the Act 28 of 2008 as on the date of commencement of the said Act. It is in the said circumstances, that the petitioner has moved the

concerned authorities for causing the correction of the BTR, as the property still stands described as 'nilam' in the Revenue Records. By virtue of the law declared by the Apex Court as per the recent ruling reported in **Revenue Divisional Officer Vs. Jalaja Dileep (2015 (1) KLT 984 (SC)**, BTR cannot be corrected and the law declared by the Division Bench of this Court in **(Revenue Divisional Officer Vs. Jalaja Dileep) [2014 (1) KLT 161]** has already been set aside. However, it has been made cleared by the Apex Court that, if the property was converted prior to the commencement of Act 28 of 2008, it is still open for the parties concerned to file an application under Kerala Land Utilisation Order and to have the same considered by the competent authority.

4. In the said circumstances, the petitioner is set at liberty to file a proper application under Clause 6(2) of the Kerala Land Utilisation Order before the addl. 3rd respondent for appropriate relief within 'two weeks' from the date of receipt of a copy of this judgment, upon which, the same shall be considered and appropriate orders shall be passed after giving an opportunity of hearing to the petitioner also in the light of the observations

made by the Apex Court in **Revenue Divisional Officer Vs. Jalaja Dileep (2015 (1) KLT 984 (SC)**, which shall be done at the earliest, at any rate, within 'two months' from the date of receipt of the same.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the addl. 3rd respondent, for further steps.

The writ petition is disposed of.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

sp