

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. 5208 of 2015 (A)

PETITIONER :

**ALAVIKUTTY,
S/O.BEERAN HAJI, AGED 43 YEARS, 20/60,
UROTHODI HOUSE, MINARVA PADI, NILAMBUR,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU**

RESPONDENT(S):

- 1. THE REVENUE DIVISIONAL OFFICER/SUB COLLECTOR,
PERINTHALMANNA, MALAPPURAM DISTRICT, PIN-679 322.**
- 2. THE VILLAGE OFFICER,
NILAMBUR VILLAGE, MALAPPURAM DISTRICT, PIN-679 322.**

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

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 5208 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1:- TRUE COPY OF THE RELEVANT PAGE OF THE FAIR VALUE REGISTER OF THE NILAMBUR VILLAGE.

EXHIBIT P2:- TRUE COPY OF THE PHOTOGRAPHS OF THE PETITIONER'S PROPERTIES.

EXHIBIT P3 TRUE COPY OF THE NOTICE ISSUED TO THE PETITIONER BY THE FIRST RESPONDENT DATED, 24.09.2014 AS NO.M.1210/2013.

EXHIBIT P4:- TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE FIRST RESPONDENT DATED, 8.10.2014.

EXHIBIT P5:- TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DATED, 9.1.2015 AS NO.M.1210/2013.

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO.JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.5208 of 2015

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Dated this the 2nd day of March, 2015

JUDGMENT

The petitioner is the owner of the property having an extent of 39 cents comprised in Survey No.54/2 of Nilambur Village. According to the petitioner, it is not a paddy land or wet land as defined under the relevant provisions of Act 28 of the Paddy Land And Wet Land Act, 2008. In fact, the said property has been described as a commercially important property as disclosed from Ext.P1 fair value register published by the competent authority. Photograph of the property is produced as Ext.P2. It is without in regard to the factual position that the petitioner was served with Ext.P3 notice dated 24.09.2014, which was replied by the petitioner as per Ext.P4 bringing the true state of affairs to the notice of the 1st respondent. However, without regard to the same, Ext.P5 order was passed by the 1st respondent on 09.01.2015 ordering restitution of the property for the alleged

violation of the provisions of Act 28 of the Paddy Land And Wet Land Act, 2008. This in turn is under challenge in this writ petition.

2. Heard the learned learned Government Pleader as well, who points out that in the Data Bank Register, the property has been shown as 'Tarisu' and that the same virtually amounts to paddy land. The said version is sought to be rebutted by the learned counsel for the petitioner. In any view of the matter, this Court does not find it necessary to go into the disputed question of fact and the only point that it is to be considered is whether the 1st respondent is having any power, jurisdiction or competence to have ordered restitution of the property in terms of Act 28 of the Paddy Land And Wet Land Act, 2008.

3. As per the Scheme of the 'Act', the competent authority to deal with the matter is none other than the District Collector. In the said circumstance, this Court finds that restitution of the property ordered by the 1st respondent is beyond the provisions of law and not liable to be sustained. It is ordered accordingly. However, this will not prevent the respondents from bringing the

position to the notice of the competent authority and it will be open for the competent authority to take appropriate steps in accordance with the relevant provisions of the statute.

Writ petition disposed of.

Sd/-
P.R.RAMACHANDRA MENON, JUDGE

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