

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 7157 of 2015 (T)

PETITIONER(S):

1. **ABDUL SALAM C.K., AGED 37 YEARS,
S/O.KOCHAMMU, CHENNAMPPILLY HOUSE,
MUPPATHADAM P.O., ERNAKULAM DISTRICT.**
2. **SAMEERA, AGED 35 YEARS,
W/O.ABDUL SALAM C.K., CHENNAMPPILLY HOUSE,
MUPPATHADAM P.O., ERNAKULAM DISTRICT.**

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENT(S):

1. **THE DISTRICT COLLECTOR, ERNAKULAM - 682 030.**
2. **THE REVENUE DIVISIONAL OFFICER, FORT KOCHI - 682 001.**
3. **THE TAHSILDAR, NORTH PARAVOOR,
ERNAKULAM DISTRICT - 683 513.**
4. **THE VILLAGE OFFICER, KUNNUKARA - 683 578.**
5. **THE LOCAL LEVEL MONITORING COMMITTEE CONSTITUTED UNDER
THE PROVISIONS OF THE KERALA CONSERVATION OF
PADDY LAND AND WET LAND ACT,
2008 OF KUNNUKARA GRAMA PANCHAYATH,
ERNAKULAM DISTRICT - 683 578,
REPRESENTED BY ITS CONVENER (THE AGRICULTURE OFFICER,
KRISHIBHAVAN, KUNNUKARA P.O., ERNAKULAM DISTRICT.)**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 7157 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXT.P1 A TRUE COPY OF THE DOCUMENT BEARING NO.2356/2013 OF
CHENGAMANADU SUB REGISTRY DATED 14.5.2013.**

**EXT.P2 A TRUE COPY OF THE ASSIGNMENT DEED DATED 13.1.2015 OF
CHENGAMANADU SUB REGISTRY.**

**EXT.P3 A TRUE COPY OF THE RELEVANT PORTION OF THE DATA BANK OF
KUNNUKARA GRAMA PANCHAYATH.**

**EXT.P4 A TRUE COPY OF THE CERTIFICATE BEARING NO.2162/2014 ISSUED BY THE
4TH RESPONDENT.**

EXT.P5 A PHOTOGRAPH OF THE PROPERTY OWNED BY THE PETITIONERS.

**EXT.P6 A TRUE COPY OF THE REPRESENTATION DATED 11.11.2014 SUBMITTED BY
THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXT.P7 A TRUE COPY OF THE REPRESENTATION DATED 20.1.2015 FILED BY THE
1ST PETITIONER BEFORE THE 5TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. VINOD CHANDRAN, J.
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Dated this the 1st day of July, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

“i) To declare that the petitioners property covered by Exhibit P1 and P2 will not come within the purview of paddy land as defined in Section 2(XII) of Act 28 of 2008 and the said property is not liable to be included in the data bank prepared in pursuance of the said Act.

ii) To issue a Writ of certiorari calling for the originals of Exhibit P3 and to quash the same to the extent it includes the petitioner's property covered by Exhibits P1 and P2 are included within the purview of paddy land in the data bank.

lii) To issue a Writ of mandamus, Order or Direction to the 5th respondent to consider and dispose of Exhibit P7 after hearing the petitioners.

iv) To grant such other reliefs as this Honourable Court may deem fit and proper”.

2. Pursuant to the order dated 06.03.2015 passed by this Court, a report has been filed by the 5th respondent, which reads as follows:

"3. On inspection, it is found that the property is presently a 'converted land' where a house is constructed by Mr. Abdul Salam. It was found that there are Panchayat numbered houses on the three sides of the property. On inspection and enquiry it is understood that the land was converted much before 2008 and there were two coconut palms of almost 15 years old in the site, which were removed for house construction.

4. On inspection and enquiry, it is found that the property owned by the petitioner comprised Resurvey No.480/2 of Kunnukara Village is neither a 'paddy land' nor a 'wetland' at the time of commencement of Act 28 of 2008".

3. Heard both sides in detail.

4. After going through the pleadings and proceedings, it is seen that the property of the petitioners was wrongly included in the Data Bank Register as a 'paddy land' and that the same is now situated as a 'converted land' with quite a lot of improvements, including age old Coconut palms and such other

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trees. The factual position is conceded by the 5th respondent in the report as aforesaid.

5. In the said circumstances, there will be a direction to the 5th respondent to take necessary steps to delete the properties comprised in Survey No.480/2 of Kunnukara Village belonging to the petitioners from the Data Bank Register and appropriate steps shall be taken by the competent authority for causing the notification of the same, if necessary, by way of appropriate proceedings. The proceedings as above shall be finalised 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 this judgment, along with a copy of the writ petition, before the 5th respondent, for further steps.

The writ petition is disposed of.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy//

P.A to Judge.