

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 7393 of 2015 (Y)

PETITIONER :

**GEORGEKUTTY K.J,
S/O.LATE K.A.JOHN, KUTTIKKERIL HOUSE,
MULAKKULAM VILLAGE, PERUVA P.O.,
KOTTAYAM-686 610.**

**BY ADVS.SRI.ROY CHACKO
SRI.P.S.GEORGE**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR, KOTTAYAM-686 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
PALA-686 610.**
- 3. THE VILLAGE OFFICER,
MULAKULAM VILLAGE, PERUVA P.O.,
KOTTAYAM-686 001.**
- 4. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, MULAKULAM-686 601**
- 5. THE STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM-695 001**
- 6. THE CHIEF DIVISIONAL RETIAL SALES MANAGER,
INDIAN OIL CORPORATION LTD, DIVISIONAL OFFICE,
VALLAKADAVU P.O., THIRUVANANTHAPURAM-695 008.**

**R1 TO R5 BY GOVERNMENT PLEADER SRI.M.MUHAMMED SHAFI
R6 BY SRI.M.GOPIKRISHNAN NAMBIAR**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 7393 of 2015 (Y)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. COPY OF THE TAX RECEIPT DATED 11/7/2014 ISSUED BY THE 3RD RESPONDENT
- EXT.P2. COPY OF THE PROCEEDINGS DATED 27//1/1997 BY THE 2ND RESPONDENT
- EXT.P3. PHOTOGRAPHS OF PETITIONER'S PROPERTY DATED NIL.
- EXT.P4. COPY OF THE RELEVANT PAGES OF DRAFT DATA BANK OF MULAKULAM VILLAGE, DATED NIL
- EXT.P5. COPY OF THE POSSESSION CERTIFICATE DATED 7/11/2014 ISSUED BY THE 3RD RESPONDENT
- EXT.P6. COPY OF THE RELAVANT PAGE OF THE NOTICE OF THE 6TH RESPONDENT APPEARED IN MALAYALA MANORAMA DAILY DATED 16/10/2014.
- EXT.P7. COPY OF THE APPLICATION DATED 3/3/2015 UNDER KLU ORDER BEFORE THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

PA.TO JUDGE

sts

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 7393 of 2015

~~~~~

Dated, this the 20th day of March, 2015

JUDGMENT

The petitioner is the owner of the land having an extent of 50 cents of land comprised in Re. Sy. No. 364/1A in Mulakkulam village in Kottayam district. The said property is not at all a paddy land for effecting cultivation. In the said circumstances, the petitioner approached the second respondent way back in 1997, seeking for permission to make use of the property for other purpose than the agriculture in terms of Clause 6 (2) of the Kerala Land Utilization Order. After considering the same, Ext. P2 permission was granted by the second respondent enabling the petitioner to fill up the land and to make use of the property other purpose than agricultural activity. The level of the property was accordingly raised as revealed from Ext. P3 photographs. The learned counsel for the petitioner submits that the property is situated on the side of the road and a lot of improvements are there nearby, including several buildings. The petitioner intends to the make use of the property for starting a petroleum outlet under the 6th respondent. When further steps were being pursued, the petitioner wanted to have a possession certificate

and also a tax receipt. But on approaching the 3rd respondent/Village Officer, it was refused to be issued. The petitioner was forced to make a fresh application vide Ext. P7 before the first respondent under Clause 6 of the Kerala Land Utilization Order. According to the petitioner, having obtained permission to fill up the land way back in 1997, as per Ext. P2, no further order under Kerala Land Utilization is contemplated or required. The learned counsel for the petitioner submits that as per the law declared by a Division Bench of this Court in **Sunil Vs, Killimangalam Panchal 5th Ward Nellulpadaka Samootham (2012 (4) KLT 511)**, the land reclaimed prior to the commencement of the Act 28 of 2008 can be made use of, even for 'Industrial purpose'.

2. Heard the learned Government Pleader as well.

3. There is no dispute that the land concerned is neither a 'paddy land', nor a 'wet land' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008, though it has been described as 'Nilam' in the revenue records. It has been declared by a Division Bench of this Court in **Praveen Vs. Land Revenue Commissioner (2010 (2) KLT 617)** that if the property concerned is not a paddy land

or wet land, the application if any preferred, is to be considered under the relevant provisions of the Kerala Land Utilization Order, so as to enable the party concerned to make use of the property for other appropriate purpose. The factual position that the petitioner was given permission to fill up the land and make use of the same other purpose than the paddy cultivation is evident from Ext. P2. It has been further made clear by a Division Bench of this Court in **Sunil Vs. Killimangalam Panchal 5th Ward Nellulpadaka Samootham (2012 (4) KLT 511)** that the land reclaimed prior to the commencement of the relevant Act can be made use of, even for 'Industrial purpose'.

4. In the said circumstances, it is declared that it is open for the petitioner to make use of the property for any other purpose, without being restricted to the use specifically mentioned in Ext. P2. In the said circumstances, there will be a direction to the 3rd respondent to issue possession certificate, also showing that Ext.P2 permission has already been granted for conversion under the relevant provisions of the Kerala Land Utilization Order, and to issue tax receipt as and when tax is rendered, subject to satisfaction of other requirements in accordance with law.

W.P.(C) No. 7393 of 2015

: 4 :

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

The Writ Petition is disposed of.

Sd/-

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

kmd