

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C) .No. 11754 of 2009 (L)

PETITIONER(S) :

1. SADASIVA SAIT,
AGED 64 YEARS, S/O.SIDDHU,
PAWAR HOUSE UNIT ROAD, CHELAKKATTUKARA,
TRICHUR.
2. SMT.S.SALINI SADASIVA SAIT,
W/O.SADASIVA SAIT, AGED 55 YEARS,
PAWAR HOUSE UNIT ROAD, CHELAKKATTUKARA, TRICHUR.
3. VIRENDAR S.PAWAR,
AGED 29 YEARS, S/O.SADASIVA SAIT
PAWAR HOUSE UNIT ROAD, CHELAKKATTUKARA, TRICHUR.

BY ADVS.SRI.PAUL MATHEW (PERUMPILLIL)
SRI.P.V.SREENIJIN
SMT.K.B.SONY
SRI.PRASUN.S
SRI.SANU.S.PANICKER.

RESPONDENT(S) :

1. THE LAND REVENUE COMMISSIONER,
PUBLIC OFFICE BUILDING, V.C.M.JUNCTION, TRIVANDRUM.
2. THE REVENUE DIVISIONAL OFFICER,
TRICHUR.

BY GOVERNMENT PLEADER SRI. S.JAMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : TRUE COPY OF THE APPLICATION DATED 29/09/2006 FILED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.
- EXT. P2 : TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER, PERINGAVU DATED 11/10/2007.
- EXT. P3 : TRUE COPY OF THE REPORT OF THE ADDITIONAL TAHASILDAR, TRICHUR DATED 11/10/2007.
- EXT. P4 : TRUE COPY OF THE ORDER DATED 04/12/2007 PASSED BY THE 2ND RESPONDENT.
- EXT. P5 : TRUE COPY OF THE MEMORANDUM OF APPEAL SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.
- EXT. P6 : TRUE COPY OF THE ORDER DATED 20/11/2008 PASSED BY THE 1ST RESPONDENT.
- EXT. P7 : TRUE COPY OF THE PERMISSION TO RECLAIM GRANTED TO MR. CLETUS BY THE 2ND RESPONDENT.
- EXT. P8 : TRUE COPY OF THE PERMISSION TO RECLAIM GRANTED TO MR. CLETUS BY THE 2ND RESPONDENT.
- EXT. P9 : TRUE COPY OF THE PERMISSION TO RECLAIM GRANTED TO MRS. RASEENA BY THE 2ND RESPONDENT.
- EXT. P10 : TRUE COPY OF THE PRINT OUTS OF DIGITAL PHOTOGRAPHS AND SCANNED COPIES OF PHOTOGRAPHS.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P(C). No.11754 of 2009

Dated this the 28th day of July, 2015.

JUDGMENT

The petitioners have applied for conveyance of 6Acre 99 cents of 'paddy land' described so in the Basic Tax Register, but however lying as 'nilam'. The petitioners wanted Coconut plantation to be made in the said land. The petitioners' application was rejected vide Ext.P4, by the RDO, despite a favourable report of the Village Officer. Ext.P4 order was passed prior to the introduction of the Kerala Conservation of Paddy Lands and Wet Lands Act 2008 [for brevity, the Act of 2008]. Hence, the land will have to concede to the enactment and the decisions on that count.

2. The entire issue would depend on whether the petitioners' land has been included in the Draft Data Bank/Data Bank notified for the area. If the same is included in the Draft Data Bank as 'paddy land' itself, then the petitioners could move before the Local Level Monitoring Committee to inspect the

property and remove the same from the Draft Data Bank as has been laid down in **Adani Infrastructure and Developers Pvt. Ltd. v. State of Kerala [2015 (1) KLT 651]**. However, if the Draft Data Bank has been notified, then definitely the petitioners would have to take appropriate proceedings before this Court.

3. If the land is indicated as converted land, then the petitioners could move an application for change in utilisation as has been laid down in **Revenue Divisional Officer, Fort Kochi and others v. Jalaja Dileep and another** [2015 (2) KHC 109 (SC)] and **Puthan Purakkal Joseph v. Sub Collector [2015 (3) KLT 182]**.

The writ petition stands disposed of, leaving open such remedy and Ext.P4 would stand set aside to facilitate the petitioners to avail of such remedy. The petitioners could also approach the appropriate authority for fresh assessment as has been laid down in **Kizhakkambalam Grama Panchayath V. Mariumma [2015(2) KLT 516]**.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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