

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF MARCH 2015/19TH PHALGUNA, 1936

WP(C).No. 7538 of 2015 (N)

PETITIONER(S):

**V.K. GOPI, AGED 68 YEARS,
S/O.AYYAPPAN, VELLIMATTOM HOUSE, OKKAL P.O.,
CHELAMMATTOM VILLAGE, PIN-683550, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.T.M.RAMAN KARTHA
SMT.SYAMA MOHAN**

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
ERNAKULAM, CIVIL STATION, KAKKANADU,
PIN - 682 030**
- 2. REVENUE DIVISIONAL OFFICER,
MOOVATTUPUZHA, PIN - 686 661**
- 3. TAHSILDAR,
KUNNATHUNADU TALUK OFFICE, PERUMBAVOOR, PIN-683 542**
- 4. VILLAGE OFFICER,CHELAMMATTOM, PIN- 683 550.**
- 5. SECRETARY,
OKKAL GRAMA PANCHAYATH, OKKAL P.O. ERNAKULAM DISTRICT,
PIN-683 550**

R1 TO R4 BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 7538 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 A TRUE COPY OF THE SALE DEED NO 6075/1/12 DATED 30-10-2012.

**EXHIBIT P2 A TRUE COPY OF THE COMMUNICATION RECEIVED FROM THE 5TH
RESPONDENT REJECTING THE APPLICATION FOR BUILDING PERMIT.**

**EXHIBIT P3 A TRUE COPY OF THE ABOVE APPLICATION/REQUEST DATED 15-07-2014
SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S. TO JUDGE

AD/

P.R.RAMACHANDRA MENON, J.

W.P.(C) No. 7538 of 2015

Dated this the 10th day of March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- (i) Issue a writ of certiorari calling for the records of this case leading to Ext.P2 and quash the same;
- (ii) Issue a writ of mandamus directing the second respondent to consider Ext.P3 application on merits and pass necessary orders modifying the description of the property of the petitioner as 'dry land' in the place of "**Nilam**" in the revenue records relating to the petitioner's property in Survey Nos. 416/5-2. 18-2, 6, 17 of Block 8 of Chelamattom Village;
- (iii) Pass such other orders which are deemed to be just and reasonable in the interest of justice."

2. The learned counsel for the petitioner submits that the property concerned herein is actually a 'dry land' and not a 'paddy land' or 'wet land' as envisaged under Act 28 of 2008. The property is not included in the Data Bank Register as well. The same, however, stands described as 'Nilam' in the DBR. With intent to construct a residential building in the property, the petitioner approached the local authority. But the request was turned down as per Ext.P2 dated 28.5.2014 stating that the relief sought for cannot be acceded to as the property has been described as 'Nilam' in the 'BTR'. This made the petitioner approach this Court by filing this Writ Petition.

3. Heard the learned Government Pleader as well.

4. After considering the pleadings and proceedings and also the relevant provisions of law, it has been declared by a Division Bench of this Court, as per the decision reported in **Praveen v. Land Revenue Commissioner - 2010 (2) KLT**

617 that if the property is not a 'paddy land' or 'wet land' coming within the purview of Act 28 of 2008, the matter has to be considered with reference to the physical nature of property in terms of the Kerala Land Utilization Order.

5. In the said circumstance the petitioner is relegated to file a proper petition to the 2nd respondent under Clause 6(2) of the Kerala Land Utilization Order, so as to enable the petitioner to make use of the property for other purposes than agriculture purpose. If any such petition is filed within two weeks from the date of receipt of a copy of this judgment, the same shall be considered and appropriate orders shall be passed by the 2nd respondent after affording an opportunity of hearing the petitioner and also to the 5th respondent, after calling for a report from the concerned Agricultural Officer at the earliest, at any rate within two months from the date of receipt of a copy of this judgment.

Writ Petition is disposed of. The petitioner shall produce a copy of the judgment along with a copy of the Writ Petition before the concerned respondent for further steps.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

jjj