

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 7739 of 2015 (N)

PETITIONER(S):

**G. PONNAN,
S/O.P.GOPALAN, AGED 45 YEARS,
JAYA VIHAR, KARNAKI NAGAR.
MOOTHANTHARA, PALAKKAD.**

**BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA**

RESPONDENT(S):

**THE LOCAL LEVEL MONITORING COMMITTEE
(PALAKKAD MUNICIPALITY), REPRESENTED BY ITS CONVENER,
THE AGRICULTURAL OFFICER, KRISHI BHAVAN,
PALAKKAD MUNICIPALITY, PALAKKAD.**

R BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD/

WP(C).No. 7739 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE DOCUMENT BEARING NO.2052/08 OF S.R.O.
PALAKKAD.**

EXHIBIT P2: TRUE COPY OF THE LAND TAX RECEIPT.

EXHIBIT P3: TRUE COPY OF THE POSSESSION CERTIFICATE.

**EXHIBIT P4: TRUE COPY OF THE PROCEEDINGS OF THE SECRETARY OF THE
PALAKKAD MUNICIPALITY DATED 11.9.2014.**

EXHIBIT P5: TRUE COPY OF THE RELEVANT PAGES OF THE DRAFT DATA BANK.

**EXHIBIT P6: TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER
BEFORE THE RESPONDENT DATED 16/2/2015.**

**EXHIBIT P7: TRUE COPY OF THE CERTIFICATE DATED 5/3/2015 ISSUED BY THE
AGRICULTURAL FIELD OFFICER, KRISHI BHAVAN, PALAKKAD.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD/

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 7739 OF 2015
.....

Dated this the 19th 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 mandamus or other appropriate writs, orders or directions commanding the respondent to consider Exhibit P6 request and to delete the entry of the petitioners property from the data bank in the light of the principles laid down by this Hon'ble Court in Adani Infrastructure and Developers Private Ltd. vs. State of Kerala (2015 (1) KLT 651) as expeditiously as possible at any rate within a time frame to be fixed by this Hon'ble Court.

ii) issue a writ to declare that the inclusion of the property of the petitioner in the draft data bank is illegal and irregular since the property is located in the midst of a housing colony.

iii) render such other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. The case of the petitioner is that the petitioner's application for building permit was rejected as per Ext.P4 stating that the property is located in a paddy zone and further that by

virtue of Government order G.O.(MS) 210/09/LSGD dated 11.11.2009, permission cannot be granted for construction of building in paddy zone. The petitioner preferred W.P(C) 31395/2014 (the matter is still pending), wherein the third respondent/District Town Planner had filed counter affidavit stating that the property has been included in the Data Bank . Pursuant to further steps, Ext.P7 report has been issued by the concerned Agricultural Officer stating that the petitioner's property is not suitable for paddy cultivation and that it is not a paddy land or wet land. In the meantime, the petitioner has preferred Ext.P6 representation before the respondent/LLMC to delete the entry from the data bank in respect of his property, but the same is still to be acted upon.

3. The law is well settled by virtue of the decision in **Adani Infracstructure and Developers Private Ltd. vs. State of Kerala** (2015 (1) KLT 651) wherein it has been held that the land owners can approach the respondent/LLMC and for modification of the inclusion of their property by producing necessary materials to prove that the land is not a cultivable paddy land and that it is not a paddy land or wet land.

4. In the said circumstance, the respondent /LLMC is directed to consider and pass appropriate orders on Ext.P6 after hearing, 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 respondent for further steps.

P.R.RAMACHANDRA MENON
JUDGE

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