

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 7980 of 2015 (V)

PETITIONER(S) :

**UNNIKRISHNAN,
PANTHAYIL HOUSE, KANDANASSERY,
THRISSUR DISTRICT.**

BY ADV. SRI.DEEPU THANKAN

RESPONDENT(S) :

**1. STATE OF KERALA,
REP. BY ITS SECRETARY, LOCAL SELF GOVT. DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.**

**2. KANDANASSERY GRAMA PANCHAYATH, KANDANASSERY P.O.,
THRISSUR DISTRICT, REP. BY ITS SECRETARY-680 102.**

*** ADDITIONAL R3 IMPEADED**

**3. THE CHAIRMAN,
LOCAL LEVEL MONITORING COMMITTEE,
KANDANASSERY GRAMA PANCHAYATH.**

*** ADDITIONAL R3 IS IMPEADED AS PER ORDER DATED 30.03.2015 IN
I.A.NO.4589 OF 2015.**

BY SR.GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE SALE DEED NO.819/1978 OF SRO GURUVAYUR.**
- P2: TRUE COPY OF THE BUILDING PLAN PREPARED BY THE PETITIONER.**
- P3: TRUE COPY OF THE RELEVANT PAGE OF THE DATE BANK PREPARED BY THE RESPONDENT PANCHAYATH.**
- P4: TRUE COPY OF THE PHOTOGRAPHS OF THE LOCATION.**
- P5: TRUE COPY OF THE COMMUNICATION OF THE RESPONDENT DATED 05.11.2014.**
- P6: TRUE COPY OF THE CIRCULAR ISSUED BY THE 1ST RESPONDENT DATED 22.01.2011.**
- P7: TRUE COPY OF THE CIRCULARS ISSUED BY THE 1ST RESPONDENT DATED 23.09.2008.**
- P8: TRUE COPY OF THE REPRESENTATION DATED 14.03.2015.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 7980 of 2015

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Dated, this the 7th day of April, 2015

JUDGMENT

The grievance of the petitioner is mainly with regard to the rejection of application for building permit submitted by the petitioner referring to the mandate under Exts. P6/P7 circulars, as discernible from Ext. P5 . The learned counsel for the petitioner submits that, though the petitioner's property stands described as 'nilam' in the revenue records and included in the data bank register, it is neither a 'paddy land', nor a 'wet land' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008. The learned counsel for the petitioner submits that the inclusion of the petitioner's property in the data bank register is only by way of mistake and it is in the said circumstances that the petitioner has sought to implead the Local Level Monitoring Committee in the party array.

2. Heard the learned Government Pleader as well.

3. After going through the pleadings and proceedings, it is seen that the circulars stated as issued by the 1st respondent vide Exts.P6 and P7 prima facie are not in conformity with the relevant

provisions of the Kerala Land Utilization Order. However, in view of the submission made from the part of the petitioner as to the wrong inclusion of the property as “thoorthath” (which is stated as means 'converted'), the matter requires to be considered by the Local Level Monitoring Committee (3rd respondent). Moreover, law has been declared by this Court in **Castlerock Project and Developers Pvt. Ltd. Vs. Revenue Divisional Officer [2013 (3) KLT 545]** that, if any correction or deletion is to be made, it has to be considered by the Local Level Monitoring Committee. The factual position is also sought to be substantiated with reference to Ext. P4 photographs.

4. In the said circumstances, the 3rd respondent is directed to consider the matter, after conducting a spot inspection with notice to the petitioner, as expeditiously as possible at any rate within 'six weeks' from the date of receipt of a copy of this judgment. Subject to the outcome of the said exercise, application preferred by the petitioner for granting building permit shall be reconsidered by the local authority, which shall be done, at the earliest, at any rate within one month thereafter. In view of the relevant provisions of KLU Order and the law declared by this Apex

Court in **Revenue Divisional Officer Vs. Jalaja Dileep [2015 (1) KLT 984 (SC)]**, this Court finds that the Circulars produced as Exts. P6/P7 cannot have any valid existence in the eye of law and hence they stand set aside. The right of the petitioner to approach the Revenue Divisional Officer by filing necessary petition under Clause 6 (2) of the Kerala Land Utilization Order is left open.

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

The Writ Petition is disposed of.

Sd/-

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

kmd