

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

WP(C).No. 8548 of 2015 (P)

PETITIONER(S):

**THOMAS AUGUSTHY, AGED 73 YEARS,
S/O.AUGUSTHY, KALLILAN HOUSE,
KOKKUNNU, MOOKKANOOR,
ERNAKULAM DISTRICT-683 577.**

**BY ADVS.SRI.AVANEESH KOYIKKARA,
SRI.LINDONS C.DAVIS.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF AGRICULTURE,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM-682 030.**
- 3. AGRICULTURAL OFFICER,
KRISHI BHAVAN, KALADY-683 574.**

BY GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE TAX RECEIPT DATED 28/11/2013.
- EXT.P2 COPY OF THE LETTER DATED 11/11/2014 ISSUED BY THE
AGRICULTURE OFFICER, KALADY ALONG WITH THE RELEVANT
PAGES OF DATA BANK REGISTER.
- EXT.P3 COPY OF THE APPLICATION DATED 15/10/2014 SUBMITTED BY
THE PETITIONER BEFORE THE DISTRICT COLLECTOR, ERNAKULAM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.8548 of 2015

Dated this the 18th day of March, 2015

JUDGMENT

Petitioner is the owner of the property having an extent of 0.71 Ares of land in Block No.27, Resurvey No.114/10-3 of Kalady Village, which is not a 'paddy land' or 'wet land' as defined under Act 28 of 2008. Reliance is also made to Ext.P2 communication dated 11.11.2014 issued by the 3rd respondent, wherein it has been categorically conceded that the property has been shown as converted land in the Draft Data Bank Register. The petitioner has already moved the 2nd respondent by filing Ext.P3 application under Clause 6 of the Kerala Land Utilisation Order and the prayer is to cause the same to be considered, so as to enable the petitioner to make use of the property for the purpose, than agricultural purpose.

2. Heard the learned Government Pleader as well.

3. If the property was not lying as a 'paddy land' or 'wet land' as on the date of commencement of the Act, provisions of Act 28 of 2008 are not attracted.

4. In the said circumstances, the petitioner is at liberty to seek for relief with reference to the provisions of Kerala Land Utilisation Order as made cleared by this Court and also by the Apex Court on many an occasion. The latest ruling on the point rendered by the Apex Court is in **Revenue Divisional Officer Vs. Jalaja Dileep (2015 (1) KLT 984 (SC)**. The legal position has been made cleared by another Single Bench of this Court as per the decision reported in **Archana Varghese V. District Collector 2015 (1) KLT 937.**

In the said circumstances, there will be a direction to the 2nd respondent to pass appropriate orders on Ext.P3 application in the light of the above decisions as well, of course after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 2nd respondent, for further steps.

The writ petition is disposed of.

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

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