

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 9027 of 2015 (C)

PETITIONER(S):

- 1. ABDUL WAHAB,
S/O.LATE V.M.ABDUL RAHIMAN,AGED 54 YEARS,
RESIDING AT HOUSE NO.11/135, THAMARAPARAMBU,
FORT KOCHI-682 001.**
- 2. V.B.SHAHIRA,W/O.ABDUL WAHAB, AGED 52 YEARS,
RESIDING AT HOUSE NO.11/135,
THAMARAPARAMBU, FORT KOCHI-682 001.**

**BY ADVS.SRI.SHAJI P.CHALY
SRI.R.SANJITH**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT,
SECRETARIAT, TRIVANDRUM-695 001.**
- 2. THE TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM-682 011.**
- 3. THE ADDITIONAL TAHSILDAR,
KANAYANNUR TALUK, ERNAKULAM-682 011.**
- 4. THE VILLAGE OFFICER,
KAKKANAD VILLAGE OFFICE, ERNAKULAM.**
- 5. LOCAL LEVEL MONITORING COMMITTEE,
KAKKANAD VILLAGE, ERNAKULAM,
REPRESENTED BY ITS CHAIRMAN.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 9027 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT P1 :** TRUE COPY OF THE DRAFT DATA BANK.
- EXT P2 :** TRUE COPY OF THE SALE DEED BEARING NO.1979/2007 DATED
18-04-2008.
- EXT P3 :** TRUE COPY OF THE SALE DEED BEARING NO.3092/2007
DATED 03-07-2007.
- EXT P4 :** TRUE COPY OF THE REPRESENTATION DATED 21-01-2014.
- EXT P5 :** TRUE COPY OF THE REPORT OF THE 4TH RESPONDENT.
- EXT P6 :** TRUE COPY OF THE REPORT DATED 21-02-2015 OF THE 3RD
RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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P.R. RAMACHANDRA MENON, J.

W.P.(C) No.9027 of 2015

Dated this the 23rd day of March, 2015

JUDGMENT

Petitioners are the owners of properties having an extent of 8.09 Ares in Resurvey No.587/4 of Block No.9 of Kakkanad Village covered by Exts.P2 and P3 sale deeds. The said properties have been shown as converted land in the Ext.P1 Draft Data Bank Register. According to the petitioners, the said properties are not 'paddy land' or 'wet land' as defined under Sections 2(xii) and 2(xviii) of the Act 28 of 2008 and the provisions of the said Act are not applicable. It is in the said circumstances, that Ext.P4 representation has been filed for appropriate relief. Exts.P5 and P6 are the properties submitted by the respondents 4 and 3 respectively, showing the nature of the properties concerned herein.

2. Case of the petitioners is that, since properties of the petitioners have been shown as converted seven years back, it is

liable to be excluded from the purview of the Data Bank Register.

3. Heard the learned Special Government Pleader as well, who submitted that the properties have been shown as converted prior to the commencement of Act 28 of 2008 in the Draft Data Bank Register and as such, the provisions of Act 28 of 2008 cannot be made applicable to the properties in question. The course of action, which is to be pursued under the said circumstances, has been made cleared by the Apex Court as per the recent decision reported in **Revenue Divisional Officer Vs. Jalaja Dileep (2015 (1) KLT 984 (SC)**, while holding that no correction of the BTR is possible, it has been made cleared by the Apex Court that in respect of properties, which were converted prior to commencement of Act 28 of 2008, the parties are liberty to approach the competent authority by filing petition under Clause 6 of the Kerala Land Utilisation Order, so as to have appropriate relief.

4. In the said circumstances, the petitioners are also set at liberty to file necessary petition under Clause 6(2) of the Kerala Land Utilisation Order, upon which it will be for the competent

authority to have the same considered and appropriate orders to be passed after affording an opportunity of hearing to the petitioner.

The writ petition stands disposed of accordingly.

Sd/-
P.R. RAMACHANDRA MENON,
JUDGE

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