

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No. 9332 of 2015 (N)

PETITIONER :

**SUBEESH, AGED 40 YEARS,
S/O.JOHN, THANNIKKODU HOUSE,
OLANADU, VARAPUZHA P.O., ERNAKULAM-683 517.**

**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 AND CONVENER,
LOCAL LEVEL MONITORING COMMITTEE, KRISHI BHAVAN,
ALANGAD.**

BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 9332 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE LAND TAX RECEIPT DATED 15/11/2014.

EXHIBIT P2- TRUE COPY OF THE LETTER OF AGRICULTURAL OFFICER 18/12/2014.

**EXHIBIT P3- TRUE COPY OF APPLICATION DATED 04/12/2014 SUBMITTED BY THE
PETITIONER BEFORE THE DISTRICT COLLECTOR, ERNAKULAM.**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 9332 of 2015

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Dated, this the 24th day of March, 2015

JUDGMENT

The petitioner is stated as owner of the property having an extent of 1.21 Ares of land comprised in Re Sy No. 34/4A of Alangad village. According to the petitioner, the said land is neither a 'paddy land', nor a 'wet land' as defined under Section 2 (xii) or 2 (xviii) of Act 28 of 2008, though it has been described as 'Nilam' in the revenue records. It is stated that in the Draft Data Bank published by the respondents, the property of the petitioner is not included, as discernible from Ext. P2'. Though the petitioner has approached the second respondent/District Collector by filing Ext. P3 representation under Clause 6 of the Kerala Land Utilization Order, seeking permission to use the land for other purposes than agricultural purpose, the same is still to be considered, which made the petitioner to approach this Court by filing the present writ petition.

2. Heard the learned Government Pleader as well

3. The law has been declared as per the decision rendered in

JafarKhan Vs. K.A. Kochumarakkar & Ors. [2012 (1) KHC 523]

that the provisions of the Conservation of Kerala paddy land and Wet land Act are applicable only in respect of the land which were lying as 'paddy land' or 'wet land' as on the date of commencement of the 'Act'. It has been further asserted by another learned Judge of this Court in **Asharaf K.K. And Ors Vs. Eramala Grama Panchayath and Ors (2012 (3) KLT 323)** that if the land is not included in the Data Bank Register prepared under the Act, it cannot be classified as 'paddy land' or 'wet land'. It has been declared by a Division Bench of this Court in **Praveen Vs. Land Revenue Commissioner (2010 (2) KLT 617)** that, if the property concerned is not a paddy land or wet land, the application if any preferred, is to be considered under the relevant provisions of the Kerala Land Utilization Order, so as to enable the party concerned to make use of the property for other appropriate purpose. It has been further made clear by a Division Bench of this Court in **Sunil Vs. Killimangalam Panchal 5th Ward Nellulpadaka Samootham (2012 (4) KLT 511)** that the land reclaimed prior to the commencement of the relevant Act can be made use of, even for 'Industrial purpose'

4. In the said circumstances, the second respondent is directed to consider and pass appropriate orders on Ext. P3 after

getting report from the Convener of the Local Level Monitoring Committee and in the light of the observations made by this Court in the decisions cited supra. This shall be done after giving 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 copy of the writ petition before the second respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd