

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No.10084 of 2015 (I)

PETITIONER:

**ABDUL MAJEED,S/O.ABOOBAKKAR,AGED 48 YEARS,
PEEDIKAKANDY HOUSE,NADUVANNUR POST,
KOZHIKODE DISTICT - 673 614.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR,
KOZHIKODE - 673 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
KOZHIKODE - 673 001.**
- 3. THE VILLAGE OFFICER,NADUVANNUR,
KOZHIKODE DISTRICT - 673 614.**

R1 TO R3 BY GOVERNMENT PLEADER SRI.K.C.VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.10084 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1-TRUE COPY OF SALE DEED DT.11.9.96 REGISTERED AS DOCUMENT
1739/1996.

EXT.P2-THE PHOTOGRAPH OF THE PROPERTY OF THE PETITIONER.

EXT.P3-TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT ON 18.8.14.

EXT.P4-TRUE COPY OF THE REPORT SUBMITTED BY THE 3RD RESPONDENT
ALONG WITH THE ENCLOSURES DT. 18.9.14.

EXT.P5-TRUE COPY OF THE LETTER DT. 28.10.14 ISSUED BY THE 2ND
RESPONDENT TO THE 3RD RESPONDENT.

EXT.P6-TRUE COPY OF THE ADDITIONAL REPORT DT. 31.10.14 AND THE COPY
OF THE RELEVANT ENTRY OF DRAFT DATA BANK OF NADUVANNUUR
GRAMA PANCHAYATH.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.10084 of 2015

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Dated this the 30th day of March, 2015

JUDGMENT

The case of the petitioner is that property of the petitioner covered by Ext.P1 is not a 'paddy land' or 'wet land' as defined Sections 2(xii) and 2(xviii) of the Act 28 of 2008. The physical nature of the property is discernible from Ext.P2 photographs. The property, however, came to be shown as 'reclaimed paddy land' in Draft Data Bank Register as evident from Ext.P6. Such a description causes adverse results with regard to the enjoyment of the property which made the petitioner to submit necessary application for deleting the entry from the Data Bank which is still to be acted upon and hence the writ petition.

2. Heard the learned Special Government Pleader as well.

3. It is brought to the notice of this Court that the Data Bank Register though stands notified, the nature of the property has been clearly noted therein that it was converted about 40 years ago. The law stands settled that, if the property was converted prior to the commencement of the Act 28 of 2008,

provisions of the said Act are not applicable.

4. The learned counsel for the petitioner submits that Ext.P3 application has not been considered by the 2nd respondent and the only prayer is to consider the same without delay.

5. The learned Special Government Pleader points out that the relief sought for is to convert the nature and classification of the land as dry land/reclaimed land. The property, however, came to be shown as 'reclaimed paddy land' in Draft Data Bank Register. By virtue of the law declared by Apex Court as per the decision reported in **Revenue Divisional Officer v. Jalaja Dileep** (2015(1) KLT 984) (SC), the classification cannot be changed in the 'BTR'. However, if the petitioner files a proper application under Clause 6(2) of the KLU Order, the same will be considered and appropriate orders will be passed within the reasonable time.

6. In the said circumstances, the petitioner is set at liberty to move the second respondent by filing a petition under Clause 6(2) of the KLU order within 'two weeks' from the date of receipt of a copy of this judgment; upon which the same shall be considered and appropriate orders shall be passed in accordance

with law and also in the light of the observations made by the Apex Court as mentioned above, after affording an opportunity of hearing to the petitioner. This shall be done at the earliest, at any rate within two months from the date of receipt of the application as aforesaid. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the second respondent for further steps.

The writ petition is disposed of.

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

sj