

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

WP(C).No. 14098 of 2012 (J)

PETITIONER(S):

**P.J.JAMES, AGED 52 YEARS
PUTHUPPALLY, ARUNAPURAM, PALA-686574.**

**BY ADVS.SRI.B.KRISHNA MANI
SRI.RAHUL VENUGOPAL
SRI.D.KESAVAN NAIR
SMT.N.V.SANDHYA**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM-686001.**
- 3. THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, PALA-686575.**
- 4. THE TAHASILDAR,
MEENACHIL TALUK, KOTTAYAM DISTRICT-686589.**

R BY GOVERNMENT PLEADER P.K.ABDUL RAHMAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE APPLICATION DATED 10.10.03
BEFORE THE 3RD RESPONDENT.**

**EXHIBIT P2: TRUE COPY OF THE REPORT DATED 13.1.04 ISSUED BY
THE PRINCIPAL AGRICULTURAL OFFICER, KOTTAYAM TO
THE 3RD RESPONDENT.**

**EXHIBIT P3: TRUE COPY OF THE REPORT DATED 20.1.04 ISSUED BY
THE 4TH RESPONDENT.**

**EXHIBIT P4: TRUE COPY OF THE LETTER DATED 19.8.04 ISSUED BY
THE 3RD RESPONDENT TO THE DISTRICT COLLECTOR.**

**EXHIBIT P5: TRUE COPY OF THE REPORT DATED 18.7.05 ISSUED BY
THE ADDITIONAL TAHSILDAR, MEENACHIL TALUK TO THE
3RD RESPONDENT.**

**EXHIBIT P6: TRUE COPY OF THE COMMUNICATION DATED 20.5.05
ISSUED BY THE ADDITIONAL TAHSILDAR, MEENACHIL
TALUK TO THE 3RD RESPONDENT.**

**EXHIBIT P7: TRUE COPY OF THE COMMUNICATION ISSUED BY THE
3RD RESPONDENT TO THE 2ND RESPONDENT.**

**EXHIBIT P8: TRUE COPY OF THE PROCEEDINGS DATED 26.10.09 OF
THE OFFICE NOTES OF THE PALA REVENUE DIVISIONAL
OFFICE.**

**EXHIBIT P9: TRUE COPY OF THE ORDER DATED 29.3.2001 NO.G.O.(RT)
1387/2001 LSGD ISSUED BY THE GOVERNMENT TO THE
SECRETARY, PALA MUNICIPALITY.**

**EXHIBIT P10: TRUE COPY OF THE ORDER DATED 21.8.01 NO .
K.DIS.3590/2000 A ISSUED BY THE 3RD RESPONDENT.**

**EXHIBIT P11: TRUE COPY OF THE ORDER DATED 13.9.04 ISSUED BY
THE SECRETARY, PALA MUNICIPALITY.**

**EXHIBIT P12: TRUE COPY OF THE ORDER DATED 13.8.04 ISSUED BY
THE CHAIR PERSON, PALA MUNICIPALITY.**

**EXHIBIT P13: TRUE COPY OF THE COMMUNICATION DATED 17.3.2011
ISSUED BY THE SUB COLLECTOR, KOTTAYAM.**

RESPONDENTS' EXHIBITS

NIL

//TRUE COPY//

PA TO JUDGE

A.M.SHAFFIQUE , J.

W.P.(C).No. 14098 of 2012

Dated this the 12th day of November, 2015

JUDGMENT

The petitioner has approached this Court seeking for following directions. The petitioner claims that he is the owner in possession of 25.57 Ares of property in Sy.No.1/13 and 1/78 of Block No.80 of Puliyanur Village, Pala. According to the petitioner that 10.48 Ares of property was already acquired for the highway and the balance property is lying as barren land. The petitioner earlier approached the Revenue Divisional Officer seeking permission to construct a building in the said property on the ground that the property is lying fallow and without any cultivation for the last several years. Ext.P1 dated 10.10.2003 is the said application. Reference is made to Ext.P2 dated 13.1.2004 by which the Principal Agricultural Officer had given a report stating that 5 cents of property could be recommended for constructing a house. A report is also submitted by the Tahasildar on 20.1.2004 indicating that the property is not being cultivated and it is unfit for

paddy cultivation. The Revenue Divisional Officer by Ext.P4 dated 19.8.2004 referred the matter to the District Collector. The District Collector approved that building could be constructed in 5 cents of property as evident from Ext.P7. No specific date is mentioned in Ext.P7, but it refers to the Revenue Divisional Officer's letter dated 19.8.2004. Therefore it might be an order issued during 2004.

2. The petitioner contends that being a property which is not suitable for cultivation he should be permitted to fill up and reclaim the entire land.

3. The issue regarding filling up of paddy lands or wet lands is covered by the Conservation of Paddy Land and Wet Land Act, 2008 and prior to the said Act the Kerala Land Utilization Order,1967 was made applicable to lands used for paddy cultivation or for cultivation of food crop.

4. Though there was recommendation that the petitioner could construct the building in 5 cents of property, it is apparent that no construction had been

made so far. The present request of the petitioner is for filling up of the said land. If the petitioner wants to utilize the land for any other purpose, it is to be verified whether the property is included as paddy land or wet land in the data bank entries and if not seek permission from the Collector under KLU order 1967.

4. This position has been well settled by the Supreme Court in **Jalaja dileep V. Revenue Divisional Officer [2014 (1)KLT 161]**.

5. Having regard to the law laid down by the Supreme Court, I do not think that this Court will be justified in directing the respondents to permit the petitioner to reclaim the land. Admittedly the said land is treated as paddy land as per the basic tax register. It might be true that the property will not be fit for cultivation. Under such circumstances, the petitioner may have to approach the Local Level Monitoring Committee of the concerned area to verify whether this property has been included in the data bank as paddy land and if so, it is open for the petitioner to seek appropriate corrections

in accordance with the procedure prescribed. If the property is not declared as a paddy land in the data bank entries the petitioner will have to approach the Revenue Divisional Officer concerned for seeking conversion of the property. This is the law now settled by the Supreme Court in the aforesaid judgment and this Court cannot depart from the said view.

6. Accordingly this writ petition is disposed of with the above observations.

Sd/-
A.M.SHAFFIQUE
JUDGE

//TRUE COPY//

PA TO JUDGE

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