

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 11321 of 2015 (M)

PETITIONER(S):

**K.C.VARGHESE MAPPILA,
AGED 89 YEARS, S/O.CHERIAN MAPPILA,
KARATHANALLOOR KANDATHIL VEETIL,
KUTTOOR VILLAGE, THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.R.SANTHOSH BABU.

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA DISTRICT.**
- 2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE RDO , THIRUVALLA,
PATHANAMTHITTA DISTRICT.**
- 3. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, KUTTOOR, THIRUVALLA.**
- 4. THE VILLAGE OFFICER, KUTTOOR VILLAGE,
THIRUVALLA.**

BY SR. GOVT. PLEADER SRI.JOSEPH GEORGE.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : TRUE COPY OF RELEASE DEED NO.263/1973, OF SUB REGISTRAR'S OFFICE, THIRUVALLA DATED 08-02-1973.
- EXT P2 : TRUE COPY OF TAX RECEIPT DATED 07-02-2015 ISSUED BY VILLAGE OFFICER, KUTTOOR TO THE PETITIONER.
- EXT P3 : PHOTOGRAPHS SHOWING THE PRESENT STATE OF AFFAIRS OF THE PETITIONER'S PROPERTY.
- EXT P4 : TRUE COPY OF RELEVANT PAGE OF DATA BANK NOTIFICATION.
- EXT P5 : TRUE COPY OF REPRESENTATION DATED 30-03-2015 BEFORE THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

P.R. RAMACHANDRA MENON J.

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Dated, this the 7th day of April, 2015

JUDGMENT

The petitioner is the owner of the property having an extent of 53.65 Ares of land covered by Ext. P1 release deed. The said property was being enjoyed by him, also satisfying the tax as borne by Ext. P2. Ext. P3 is the photograph showing the physical nature of the property. The property concerned is shown as the 'reclaimed land' in Ext. P4 data bank register. As such, 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. The petitioner has already moved the second respondent/Revenue Divisional Officer by submitting Ext. P5 representation under Clause 6 (2) of the Kerala Land Utilization Order. The prayer is to cause the same to be considered within a reasonable time.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

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

JafarKhan Vs. K.A. Kochumarakkur & 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'. The position is confirmed as per the recent decision rendered by the Apex Court in **Revenue Divisional Officer Vs. Jalaja Dileep [2015 (1) KLT 984 (SC)]**. It is also mentioned in the aforesaid judgment, particularly in paragraph 18, that if the property is not included in the Data Bank as "Paddy Land" or "Wetland" as defined under the Act 28 of 2008, it is still governed by the provisions of K.L.U. Order 1967 and that in such circumstances, the grievance is to be considered with reference to the provisions of the KLU Order. It has been held by a learned Single Judge of this Court in **Archana Varghese Vs. District Collector [2015 (1) KLT 937]** that after the Act 28 of 2008, the Collector has no power to call upon the holder of the land to cultivate paddy in the land which is no longer a paddy land in terms of the Act 28 of 2008.

5. In the above circumstances, there will be a direction to the 2nd respondent to consider and pass appropriate orders on Ext.P5 application preferred by the petitioner in accordance with

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: 3 :

law and in the light of the decisions cited supra, 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.

The 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