

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. 11423 of 2015 (C)

PETITIONER(S) :

**ARJUN, AGED 27 YEARS,
S/O.RAMESH, CHANIYIL PULIPPARA,
KULASEKHARAMANGALAM P.O,
KULASEKHARAMANGALAM VILLAGE, VAIKOM TALUK,
KOTTAYAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :

**THE DISTRICT COLLECTOR,
THRISSUR DISTRICT- 680 001.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

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

Msd.

WP(C).No. 11423 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF THE TAX RECEIPT DATED 29.08.2014 ISSUED BY
THE PUTHENCHIRA VILLAGE OFFICER.**

**EXHIBIT P2: TRUE COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL
OFFICER, KRISHI BHAVAN, PUTHENCHIRA DATED 17.02.2015
CERTIFYING THAT THE LAND OF THE PETITIONER IS NOT
INCLUDED IN THE DRAFT DATA BANK.**

**EXHIBIT P3: TRUE COPY OF THE APPLICATION DATED 26.02.2014 SUBMITTED
BY THE PETITIONER BEFORE THE RESPONDENT UNDER
THE PROVISIONS OF THE KERALA LAND UTILIZATION ORDER,
1967.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 11423 of 2015

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Dated, this the 7th day of April, 2015

JUDGMENT

The petitioner is stated as owner of the property having an extent of 28.12 Ares (27.52 + 1.64) of properties situated in Sy Nos. 116/2A and 115/1 of Puthenchira 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, the property of the petitioner is not included as paddy land or wet land and it has been shown as a 'converted land'. Though the petitioner has approached the respondent 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'. 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 respondent to consider and pass appropriate orders on Ext. P3 application preferred by the petitioner in accordance with law after

getting a report from the Convener of the Local Level Monitoring Committee 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 respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd