

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 11646 of 2015 (E)

PETITIONER(S):

**JOSE.K.K. AGED 64 YEARS,
S/O. K.C.KUMJU VAREETH, KUDIYIRIPPIL HOUSE,
KALADY P.O., ERNAKULAM - 686537.**

**BY ADVS.SRI.AVANEESH KOYIKKARA
SRI.LINDONS.C.DAVIS**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**
- 2. LOCAL LEVEL MONITORING COMMITTEE,
REPRESENTED BY ITS CONVENER
AGRICULTURAL OFFICER, KRISHI BHAVAN,
ANGAMALY - 683572.**
- 3. AGRICULTURAL OFFICER,
KRISHI BHAVAN, ANGAMALY - 683572.**

R BY SENIOR GOVERNMENT PLEADER K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AD

WP(C).No. 11646 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: TRUE COPY OF LETTER REPLY DATED 09.01.2015 ALONG WITH
RELEVANT PAGE OF DRAFT DATA BANK REGISTER ISSUED BY THE 3RD
RESPONDENT**

**EXHIBIT P2: TRUE COPY OF APPLICATION DATED 4.12.2014 SUBMITTED BY THE
PETITIONER BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 11646 of 2015

~~~~~

Dated, this the 8th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) To issue a writ of certiorari or any other appropriate writ or order or direction quashing Ext. P1 to extend it showing the petitioners property as paddy land/wet land in the Data Bank Register.

(ii) To issue a writ of mandamus or any other appropriate writ or order or direction directing the 2nd respondent to and pass orders on Ext. P2 after making the physical verification of the land within a time frame fixed by this Hon'ble Court.

(iii) To grant such other and further reliefs as are just, proper and necessary in the facts and circumstances of the case."

2. The petitioner is the owner of the land having an extent of 15 Ares situated in Angamaly village. The petitioner was enjoying the property also satisfying the tax. The property, according to the petitioner, is a garden land. But the property has been described as

'nilam' in the Basic Tax Register and included in the draft data bank register; copy of which has been produced as Ext. P1. Though the petitioner has moved District Collector under the relevant provisions of the Kerala Land Utilization Order, the same did not yield any positive result, referring to entry in the data bank register. According to the learned counsel for the petitioner, the petitioner has filed Ext. P2 representation before the 2nd respondent/Local Level Monitoring Committee to cause correction in the Data Bank Register, which is still to be considered. Hence the writ petition.

4. Heard the learned Government Pleader as well.

5. The basic question whether the BTR could be caused to be corrected had come up for consideration of this Court and as per the decision reported in **2014 (1) KLT 161 [Revenue Divisional Officer VS. Jalaja Dileep]**, a positive direction was given by a Division Bench of this Court to have the entry corrected with reference to the physical nature of the property. But now the Apex Court, as per the decision reported in **2015 (1) KLT 984 (SC) [Revenue Divisional Officer VS. Jalaja Dileep]**, has held that BTR cannot be corrected and thus overruled the decision in

2014 (1) KLT 161. It has however been made clear that in respect of the property which was converted before the commencement of the Act 28 of 2008, the matter could be caused to be considered by the District Collector under the relevant provisions of the KLU Order.

6. Coming to the case in hand, the petitioner's property has been included in the draft data bank register, though according to the petitioner it is a wrong inclusion. If any correction or deletion is to be made, it has to be considered by the Local Level Monitoring Committee, which is the law declared by this Court in **Castlerock Project and Developers Pvt. Ltd. Vs. Revenue Divisional Officer [2013 (3) KLT 545]**. In view of the nature of contentions raised, the matter requires to be considered by the 2nd respondent/Local Level Monitoring Committee. The petitioner has already preferred Ext. P2 representation before the 2nd respondent.

6. In the above circumstance, the 2nd respondent is directed to conduct a spot inspection with notice to the petitioner and pass appropriate orders on Ext. P2, in accordance with law, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Depending upon the

W.P.(C) No. 11646 of 2015

: 4 :

orders to be passed by the 2nd respondent, it is open for the petitioner to move the concerned authority under Clause 6 of the Kerala Land Utilization Order for redressal of the grievance, if any.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the 2nd respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd