

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. 11732 of 2015 (N)

PETITIONER(S):

1. **PALLIKKARA JUMA MASJID,
PALLIKKARA, KUNNATHUNADU VILLAGE,
KUNNATHUNADU TALUK, REPRESENTED BY ITS MANAGERS AND
AUTHORIZED REPRESENTATIVES MR.MUHAMMED,
S/O.ABOOBACKER,AGED 60 YEARS AND HASSAN,
S/O.VEEERAN,AGED 70 YEARS.**
2. **PALLIKKARA SHUHABDHA MEMORIAL EDUCATIONAL &
CHARITABLE TRUST, PALLIKKARA, KUMARAPURAM.P.O.,
KUNNATHUNADU VILLAGE, KUNNATHUNADU TALUK,
ERNAKULAM DISTRICT, REPRESENTED BY ITS TRUSTEE
MR.K.M.HUSSAIN, AGED 61 YEARS, S/O.MAMMY,
KARUMAKKATTU, PALLIKKARA KARA.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

1. **THE REVENUE DIVISIONAL OFFICER (R.D.O.),
MUVATTUPUZHA, ERNAKULAM DISTRICT-682 301**
2. **THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT-682 030**

BY SR GOVERNMENT PLEADER SRI.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:**

sts

WP(C).NO.11732/2015

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TAX RECEIPT DATED 5/3/2014 ISSUED BY THE VILLAGE OFFICER, KUNNATHUNADU TO THE FIRST PETITIONER.**
- P2 COPY OF THE TAX RECEIPT DATED 24/3/2014 ISSUED BY THE VILLAGE OFFICER, KUNNATHUNADU TO THE FIRST PETITIONER.**
- P3 COPY OF THE LEASE DEED EXECUTED BY THE FIRST PETITIONER MOSQUE IN FAVOUR OF SECOND PETITIONER TRUST DATED 27/6/2013.**
- P4 COPY OF THE RELEVANT PAGES OF DRAFT DATA BANK OF KUNNATHUNADU VILLAGE ISSUED BY THE VILLAGE OFFICER, KUNNATHUNADU VILLAGE**
- P5 COPY OF THE APPLICATION DATED 10/3/2015 SUBMITTED BY THE PETITIONERS BEFORE THE FIRST RESPONDENT UNDER THE PROVISIONS OF THE KERALA LAND UTILIZATION ORDER, 1967.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

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P.R. RAMACHANDRA MENON J.

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Dated, this the 8th day of April, 2015

JUDGMENT

The first petitioner is the owner of the land having an extent of 30.77 Ares comprised in different survey Nos. of Kunnathunadu village. The second petitioner is an educational trust under the first petitioner. The property concerned is shown as 'converted 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. In the said circumstances, the petitioner has preferred Ext. P5 application before the first respondent/Revenue Divisional Officer under Clause 6 (1) 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 first respondent to consider and pass appropriate orders on Ext.P5 application preferred by the petitioner in accordance with law and in the light of the decisions cited supra, after giving an

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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 first respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd