

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 9TH DAY OF APRIL 2015/19TH CHAITHRA, 1937

WP(C).No. 11866 of 2015 (G)

PETITIONER

**P.G.AUSTIN, AGED 35 YEARS,
S/O K.P.JOHN, PUTHRIKAL HOUSE, MULAVUKAD
ERNAKULAM - 682 504**

BY ADV. SRI.GEORGE JOHNSON

RESPONDENT(S):

- 1. DISTRICT COLLECTOR,
ERNAKULAM 682 030**
- 2. THE TAHASILDAR,
ALUVATALUK, ERNAKULAM DISTRICT 683 001**
- 3. THE VILLAGE OFFICER,
CHENGAMANAD VILLAGE, ERNAKULAM DISTRICT 683 101**
- 4. THE AGRICULTURAL OFFICER
CHENGAMANAD VILLAGE, ERNAKULAM DISTRICT 683 101**
- 5. LOCAL LEVEL MONITORING COMMITTEE
CHENGAMANAD VILLAGE, ERNAKULAM DISTRICT 683 101**

R BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-04-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF FAIR VALUE REGISTER PREPARED BY THE SUB
COLLECTOR, KOCHI AND PUBLISHED IN THE KERALA GAZETTE
DATED 6TH MARCH, 2010 AS GAZETTE NO. 515(12)**
- EXT.P2 A TRUE COPY OF THE SAID TAX PAID RECEIPT DATED 24/10/2008
OF THE VILLAGE OFFICE CHENGAMANAD**
- EXT.P3 A TRUE COPY OF THE TAX PAID RECEIPT OF THE PROPERTY
ISSUED BY THE VILLAGE OFFICE , CHENGAMANAD DATED
25/04/2014**
- EXT.P4 A TRUE COPY OF THE REPRESENTATION FILED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED 10/07/2014**
- EXT.P5 A TRUE COPY OF THE REPORT PREPARED BY THE 5TH
RESPONDENT DATED 09/12/2014**
- EXT.P6 A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE 4TH RESPONDENT DATED 16/02/2015**

RESPONDENT(S)' EXHIBITS

NIL

TRUE COPY

P.A TO JUDGE

SMM

P.R. RAMACHANDRA MENON,J

.....
W.P.(C) No.11866 OF 2015

.....
Dated this the 9th day of April, 2015.

J U D G M E N T

The grievance of the petitioner is mainly two fold; firstly that the property which according to the petitioner is a dry land/reclaimed land having effected reclamation before the commencement of Act 28 of 2008 stands described as 'Nilam' in the BTR (Basic Tax Register) and stands also included in the draft data bank register. This made the petitioner to approach the 1st respondent by filing Ext.P4 for correction of BTR. The petitioner has also moved the Local Level Monitoring Committee, the 5th respondent, by filing Ext.P6, so as to delete the wrong entry from the data bank register, based upon the actual nature of the property. The lapse on the part of the concerned

respondent made the petitioner to approach this Court by filing the Writ petition.

2. Heard the learned Government Pleader as well.

3. The first question to be considered is whether the 1st respondent could be directed to consider Ext.P4 representation to have correction in the 'BTR'. It is to be noted that the legal position stands answered against the petitioner, by virtue of the law declared by the Supreme Court as per the decision reported in **Revenue Divisional Officer vs. Jalaja Dileep (2015 (1) KLT 984)(SC)** to the effect that 'BTR' cannot be corrected, with reference to Section 18 of the Kerala Land Tax Act. The decision rendered by a Division Bench of this Court, as per the verdict reported in **Revenue Divisional Officer vs. Jalaja Dileep (2014 (1) KLT 161)**, stands overruled. This being the position, the relief sought for as above cannot be granted to the petitioner. However, in view of the law declared by the Supreme Court to the effect that, if the property was converted prior to commencement of Act 28

of 2008, the parties are at liberty to move the concerned authority by filing necessary petition under the relevant provisions of the Kerala Land Utilisation Order, the petitioner is set at liberty to move the competent authority by filing a proper petition under clause 6(2) of the KLU Order, upon which the same shall be considered and appropriate orders shall be passed in accordance with law.

4. With regard to the other grievance, it is stated that the Agricultural Officer, 4th respondent has already submitted Ext.P5 report before the District Collector referring to the actual nature of the property. It is stated that the said respondent has certified that no cultivation was being done in the said property for the past 9-10 years. The nature of the property is also discernible therefrom. It is stated that the property is having coconut palms of 30 years of age, along with other trees. It is also stated that actual paddy cultivation was not being done in the said land for the past 9 to 10 years. In view of the fact that the petitioner has already moved the Local Level Monitoring

Committee by filing Ext.P6, the matter has to be considered by the said authority in accordance with law.

5. In such circumstance, there will be a direction to the 5th respondent to conduct a spot inspection with notice to the petitioner and pass appropriate orders on Ext.P6, in accordance with law, after hearing the petitioner and also in the light of the observation made by the Division Bench of this Court as per the verdict reported in **Adani Infrastructure and Developers Pvt. Ltd. vs. State of Kerala (2015 (1) KLT 651)**. The proceedings as above shall be completed at the earliest, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

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

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

smm

smm

