

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 12173 of 2015 (V)

PETITIONER:

**ABUBACKER, S/O.MUHAMMEDKUTTY,
THIRUVATTUTHODI HOUSE, VALLAPUZHA,
PALAKKAD DISTRICT.**

BY ADV. SRI.P.JAYARAM

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
DEPARTMENT OF AGRICULTURE
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. PRINCIPAL SECRETARY AND AGRICULTURAL
PRODUCTION COMMISSIONER,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 3. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, OTTAPALAM-679101.**
- 4. REVENUE DIVISIONAL OFFICER,
OTTAPALAM-679101.**

BY GOVERNMENT PLEADER SRI.MANOJ P.KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 12173 of 2015 (V)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT-P1: TRUE COPY OF THE ORDER NO.1258/2014/AGRICULTURE
DATED 22.7.2014 ISSUED BY AGRICULTURAL PRODUCTION
COMMISSIONER AND THE PRINCIPAL SECRETARY.**

**EXHIBIT-P2: TRUE COPY OF THE LETTER DATED 4.3.2013 ISSUED BY
AGRICULTURAL OFFICER, OTTAPALAM TO THE PETITIONER.**

**EXHIBIT-P3: TRUE COPY OF THE PETITION DATED 29.5.2012 PRESENTED BY THE
PETITIONER BEFORE REVENUE MINISTER, THIRUVANANTHAPURAM.**

EXT-P3(A): TYPED COPY OF EXHIBIT-P3.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J

W.P. (C).No.12173 of 2015-V

Dated this the 30th day of July, 2015

J U D G M E N T

The petitioner is the owner of 19 cents of land in Survey No.100/9A of Ottapalam II Village which is said to be 'purayidam' but however described in the revenue records as 'nilam'. The petitioner contends that even in the Draft Data Bank prepared under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act') the property is shown as converted land.

2. The Supreme Court in RDO v. Jalaja Dileep [2015(2) KHC 109(SC)] considered the issue of rectification of description in the Basic Tax Register and held that the same is not permissible. However, with respect to conversion and utilisation of lands which are not covered or were converted prior to bringing into force of the Paddy Land Act it was held so in paragraphs 17 and 23, which are extracted hereunder:

“17. "Paddy land" and "Wetlands" are defined under Sections 2 (xii) and 2 (xviii) of the Act respectively. As per Section 5(4), the Committee shall interalia prepare a data Bank with details of cultivable paddy land within the jurisdiction of the Committee. If the land is not included in the Data Bank or Draft Data Bank prepared under the Kerala Cultivation of Paddy Land and Wetland Act, 2008 and if it is not a "Paddy Land" or "Wetland" as defined under Act 28 of 2008, at the time of commencement of the Act 12 of 2008 and the classification of land is noted as "Nilam" in the revenue records, the provision of Kerala Land Utilization Order 1967 will be applicable to such land and the Collector as defined in clause 2(a) of KLU Order 1967 has the power to grant permission to utilize the land for other purposes. As stated in clause 2(a) of KLU Order, Collectors shall examine such request for residential purpose, on merits on a case to case basis. However, with a view to prevent indiscriminate filling of Paddy Lands in the State, the Government have also prescribed certain restrictions in the Notification dated 5.2.2002 noted (supra), in which District Collectors have been directed interalia to ensure that the conversions which are likely to render irrigation investments infructuous and large scale conversion for commercial purpose are not allowed.

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23. The respondents in all the appeals are directed to approach the competent authorities constituted under KLU Order 1967/ Kerala Conservation of Paddy Land and Wetland Act 2008 as the case may be for conversion of the land. When the respondents approach the concerned authorities constituted under the above statutes, the concerned authorities shall

consider the application of the respondents in accordance with the relevant provisions of the statutes and also the notification G.O.(Rt).No.157/2002/Ad dated 5.2.2002 already extracted above in para 11 and in accordance with law keeping in view the factual position that may be brought to the notice of the authorities along with material to substantiate their claim. In the facts and circumstances of the case, we make no order as to costs.”

3. In such circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the land though included in the Data Bank prepared under the Paddy Land Act for the area, the Data Bank itself indicates it to have been converted several years back, i.e., prior to the Act of 2008. The petitioner then has to approach the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. A proper application for the said purpose is to be made. If the property is found to be utilised for a different purpose prior to the Paddy Land Act, the consideration shall be made, if necessary, after a physical inspection and concluded by a speaking order within two months from the date of production of the certified copy of this judgment, in accordance

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with Puthan Purakkal Joseph v. Sub Collector [2015 (3) KLT 182].

Subsequent to such a finding the petitioner could also approach the appropriate authority under the Kerala Land Tax Act for fresh assessment of the land, as directed to be utilised under the KLU order, as has been held in Kizhakkambalam Grama Panchayath V. Mariumma [2015 (2) KLT 516].. Ext.P1 shall stand set aside to facilitate such consideration.

Writ Petition is disposed of.

Sd/-

(K. VINOD CHANDRAN, JUDGE)

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//true copy//

P.A to Judge