

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 12336 of 2015 (N)

PETITIONER :

**KUNJAMMA,W/O.CHERU, AGED 78 YEARS,
CHEMMANNUR HOUSE, KUNNAMKULAM.P.O.,
THALAPPILLY TALUK, THRISSUR DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. THE LOCAL LEVEL MONITORING COMMITTEE,
KUNNAMKULAM, REPRESENTED BY ITS CONVENER,
AGRICULTURAL OFFICER, KUNNAMKULAM,
THRISSUR DISTRICT,PIN-680 001**
- 2. THE DISTRICT LEVEL AUTHORIZED COMMITTEE,
THRISSUR DISTRICT, REPRESENTED BY ITS CHAIRMAN,
REVENUE DIVISIONAL OFFICER (RDO), THRISSUR,
THRISSUR DISTRICT,PIN-680 001**
- 3. THE REVENUE DIVISIONAL OFFICER (RDO), THRISSUR,
THRISSUR DISTRICT,PIN-680 001**
- 4. THE DISTRICT COLLECTOR, THRISSUR,PIN-680 001**

BY SR GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER, KUNNAMKULAM DATED 11/7/2014**
- P2 COPY OF THE PROCEEDINGS DATED 18/11/1976 OF THE REVENUE DIVISIONAL OFFICER, THRISSUR**
- P3 COPY OF THE PADDY LAND IDENTIFICATION DETAILS OD KUNNAMKULAM MUNICIPALITY ISSUED BY THE VILLAGE OFFICER, KUNNAMKULAM VILLAGE.**
- P4 COPY OF THE REPRESENTATION DATED 27/10/2014 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT WITH COPY TO THE SECOND RESPONDENT.**
- P5 COPY OF THE PHOTOGRAPHS OF THE LAND OF THE PETITIONER.**
- P6 COPY OF THE JUDGMENT OF THIS HONOURABLE COURT DATED 19/11/2014 IN WP(C).NO.30789 OF 2014.**
- P7 COPY OF THE DECISION OF FIRST RESPONDENT DATED 15/1/2015.**
- P8 COPY OF THE COMMUNICATION DATED 9/2/2015 SUBMITTED BY THE AGRICULTURAL OFFICER WHO IS THE CONVENER OF FIRST RESPONDENT TO THE SECRETARY, KUNNAMKULAM MUNICIPALITY**
- P9 COPY OF THE APPLICATION DATED 2/3/2015 SUBMITTED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.**

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 10th day of April, 2015

JUDGMENT

The petitioner is the owner of the land having an extent of 29.83 Ares of land comprised in Re. Sy No. 75/12/3 of Kunnamkulam village. The said property was being enjoyed by the petitioner, also satisfying the tax as borne by Ext. P1. The property concerned is shown as the 'converted land' in data bank register, though the same has been shown as nilam in the Revenue records. 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. The petitioner has already moved the third respondent/Revenue Divisional Officer by submitting Ext. P9 under Clause 6 (2) 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. 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. 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 3rd respondent to consider and pass appropriate orders on Ext. P9 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 third respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

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