IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No. 13833 of 2015 (D)

PETITIONER(S):

VIJAYAKUMARI, W/O.GOVINDANKUTTY,
AGED 53 YEARS, CHORUMVEETTIL HOUSE,
SUKAPURAM P.O., NADUVATTOM,
MALAPPURAM DISTRICT.

BY ADVS.SRI.SANTHEEP ANKARATH,
SRI.ARUN MATHEW VADAKKAN.

RESPONDENT(S):
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1. DISTRICT COLLECTOR,
   MALAPPURAM- 676 505.

2. SUB COLLECTOR, TIRUR-676 101,
   MALAPPURAM DISTRICT

3. TAHSILDAR, PONNANI TALUK,
   PONNANI-679 577, MALAPPURAM DISTRICT.

BY GOVT. PLEADER SRI.MANOJ P.KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rs.

WP(C).No. 13833 of 2015 (D)

APPENDIX

PETITIONER'S EXHIBITS:-

P1: TRUE COPY OF THE APPLICATION DATED 12.08.2014 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P2: TRUE COPY OF THE SKETCH PREPARED BY THE VILLAGE OFFICER DATED 02.04.2014.

P3: TRUE COPY OF THE PHOTOGRAPHS SHOWING THE BOUNDARIES OF THE PETITIONER'S PROPERTY AND THE PETITIONER'S PROPERTY.

P4: TRUE COPY OF THE JUDGMENT DATED 28TH AUGUST 2014 IN WP(C).NO.21495/2014 PASSED BY THE HONOURABLE COURT.

P5: TRUE COPY OF THE APPLICATION DATED 29.09.2014 SUBMITTED BY THE PETITIONER BEFORE THE REVENUE DIVISIONAL OFFICER, TIRUR.

P6: TRUE COPY OF THE ORDER NO.F 12672/2014 DATED 28.02.2015 ISSUED BY THE 2ND RESPONDENT.

P7: TRUE COPY OF THE NOTICE NO. F 12672/2014 DATED 07.03.2015 ISSUED BY THE 2ND RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.

W.P.(C) No. 13833 of 2015 (D)

Dated this the 8th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the directions in Ext.P4 has not been complied with in Ext.P6. The petitioner was before this Court earlier seeking correction of description in the Basic Tax Register and revenue records with respect to 25.44 cents of land comprising in Survey No.55/1A of Vattamkulam Village, Edappal SRO, Malappuram District, shown as 'nilam' in the revenue records.

2. This Court relying on the decisions in **Revenue Divisional Officer, Fort Kochi and others v. Jalaja Dileep and another - 2014 (1) KLT 161**, **Praveen K. v. Land Revenue Commissioner, Thiruvananthapuram and others - 2010 (2) KHC 499** and **Sunil v. Killimangalam Panjal 5th Ward, Nellulpadaka Samooham - 2012 (4) KLT 511** directed the R.D.O. to consider the application under Clause 6 of the Kerala Land Unitilisation Order, 1967. However, by the time the

consideration was made the decision in **Revenue Divisional Officer, Fort Kochi and others v. Jalaja Dileep and another - 2014 (1) KLT 161** was reversed by the Hon'ble Supreme Court in **RDO v. Jalaja Dileep - 2015 (2) KHC 109(SC)**.

3. 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.”

4. In such circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the land are not included in the Data Bank prepared under the Paddy Land Act for the area and has been converted 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. 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 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**.

5. In such circumstance, Exts. P6 and P7 are set aside and the issue shall be considered afresh in accordance with law as directed by this Court, after issuing notice to the petitioner and affording the petitioner a hearing.

Writ Petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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