

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.M. SHAFFIQUE

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

WP(C).No. 14167 of 2014 (U)

PETITIONER:

P.K.ISSAC
S/O. LATE KURIAN, PULLANTHANIKKAL HOUSE
MARANGATTUPALLY P.O., KOTTAYAM DISTRICT, KERALA
ALSO RESIDING AT PULLANTHANIKKAL HOUSE
KOCHUVELI P.O., THODUPUZHA, IDUKKI DISTRICT.

BY ADVS.SRI.WILLS MATHEWS
SRI.C.C.ABRAHAM

RESPONDENTS:

1. THE REVENUE DIVISIONAL OFFICER
PALA, KOTTAYAM DISTRICT, KERALA-686 575.
2. THE DISTRICT COLLECTOR
KOTTAYAM, KERALA STATE-686 001.
3. THE STATE OF KERALA
REPRESENTED THROUGH THE SECRETARY
DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM-695 001.

BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : SSLC CERTIFICATE OF THE PETITIONER.

P2 : COPY OF THE TITLE DEED DTD.9.3.1998 PERTAINING TO THE ASSIGNMENT OF PROPERTY FROM MOTHER TO FATHER OF THE PETITIONER.

P3 : COPY OF THE REGISTERED WILL EXECUTED BY THE FATHER OF THE PETITIONER DTD.21.7.1998.

P4 : COPY OF THE TITLE DEED DTD.13.10.2004 PERTAINING TO THE PROPERTY EXECUTED BY THE MOTHER IN FAVOUR OF THE PETITIONER.

P5 : COPY OF THE RECEIPT ISSUED TO THE PETITIONER FROM THE MARANGATTUPALLY GRAMA PANCHAYATH FOR THE BUILDING TAX, REMITTED BY THE PETITIONER FOR THE HOUSE SITUATED IN THE PROPERTY DTD.27.11.2004.

P6 : COPY OF THE RECEIPT ISSUED TO THE PETITIONER FROM THE MARANGATTUPALLY GRAMA PANCHAYATH FOR THE BUILDING TAX, REMITTED BY THE PETITIONER FOR THE HOUSE SITUATED IN THE PROPERTY DTD.7.3.2011.

P7 : COPY OF THE RECEIPT ISSUED TO THE PETITIONER FROM ELAKKAD VILLAGE FOR LAND TAX, REMITTED BY THE PETITIONER DTD.16.8.2012.

P8 : COPY OF THE APPLICATION DTD.30.1.2013, SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

P9 : COPY OF THE REPORT OF THE VILLAGE OFFICER TO THE 1ST RESPONDENT DTD.7.2.2013.

P10: COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DTD.5.3.2013.

P11: COPY OF THE CERTIFICATE ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, MARANGATTUPALLY, DTD.30.3.2013.

P12: COPY OF THE BILL DTD.12.7.2013 ISSUED BY THE KSEB, MARANGATTUPALLY.

P13: COPY OF THE REPLY DTD.16.7.2013 ISSUED BY THE KSEB, MARANGATTUPALLY ON THE APPLICATION UNDER RTI ACT.

P14: COPY OF THE CERTIFICATE ISSUED TO THE PETITIONER BY THE SECRETARY, MARANGATTUPALLY GRAMA PANCHAYATH DTD.23.7.2013.

P15: COPY OF THE WRIT PETITION(C)NO.24196/2013 FILED BY THE PETITIONER BEFORE THE HON'BLE COURT WITHOUT EXTS.

P16: COPY OF THE JUDGMENT DTD.25.10.2013 PASSED BY THIS HON'BLE COURT IN WPC NO.24196 OF 2013 FILED BY THE PETITIONER.

P17: COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE DIST.COLLECTOR, KOTTAYAM, DTD.20.11.2013 IN COMPLIANCE WITH THE DIRECTIONS OF THIS HON'BLE COURT DTD.25.10.2013 IN WPC NO.24196 OF 2013 FILED BY THE PETITIONER.

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P18: COPY OF THE RECEIPT ISSUED BY THE DIST.COLLECTOR, KOTTAYAM, DTD.21.11.2013 AGAINST THE SUBMISSION OF THE PETITION BY THE PETITIONER IN COMPLIANCE WITH THE DIRECTIONS OF THIS HON'BLE COURT DTD.25.10.2013.

P19: COPY OF THE NOTICE FOR HEARING ON THE PETITION FOR 11.12.2013 ISSUED BY THE DISTRICT COLLECTOR, KOTTAYAM, DTD.9.12.2013.

P20: COPY OF THE ORDER DTD.19.2.2014 PASSED BY THE DIST.COLLECTOR, KOTTAYAM ON THE APPLICATION OF THE PETITIONER.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

A.M. SHAFFIQUE, J.

W.P.(C) No.14167 of 2014

Dated this the 9th day of April, 2015

JUDGMENT

Petitioner has approached this Court challenging Ext.P20 and for a direction to the respondents 1 and 2 to effect necessary changes in the revenue records concerning the land of the petitioner having an extent of 12.95 Ares in re-survey No.82/1 of Elakkad village.

2. Ext.P20 is the order passed by the District Collector, inter alia stating that the land is classified as nilam in the Basic Tax Register and since the unauthorised conversion cannot be validated, the application of the petitioner under Section 6(2) of the Kerala Land Utilisation Order stands rejected. Having regard to the law laid down by the Supreme Court in **Revenue Divisional Officer v. Jalaja Dileep [2015(1) KLT 984]**, it is for the revenue authorities to consider whether the classification in the revenue records can be changed.

3. In Ext.P20 the District Collector has considered the question whether the conversion can be permitted or not. The District Collector had formed an opinion that the current status of the land is not suitable for paddy cultivation, however it does not validate conversion as such, since it has been done without permission. Whether such a

permission could be granted under the present circumstance is a matter to be considered by the District Collector. If it is a case where the land cannot be used for cultivation of any food crops or paddy and the neighbouring land area had already been converted, the said circumstance may indicate whether permission could be granted retrospectively. Under such circumstance, I am of the view that the matter requires to be reconsidered and accordingly there would be a direction to the District Collector to re-consider the application of the petitioner under Clause 6 of the Kerala Land Utilisation Order, 1967. Accordingly, this writ petition is disposed of as under:

Ext.P20 is quashed. Petitioner is permitted to file a fresh application under Clause 6 of the Kerala Land Utilisation Order in terms of the judgment of the Supreme Court as stated above with all necessary particulars which shall be considered by the District Collector in terms of Clause 6 of the Kerala Land Utilisation Order, 1967 and the same shall be disposed of in accordance with law within a period of 6 months from the date of receipt of a copy of this judgment.

Sd/-
A.M. SHAFFIQUE,
JUDGE

smv