

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 14280 of 2014 (H)

PETITIONER :

**C.C.THOMAS, AGED 60 YEARS,
S/O.LATE C.M.CHACKO, CHEMMALAKUZHY HOUSE, PLOT NO.70,
KUMARANASAN NAGAR, KADAVANTHRA, KOCHI-682020.**

BY ADV. SRI.N.JAMES KOSHY

RESPONDENTS :

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE P.O, KOTTAYAM-682 002.**
 - 2. THE REVENUE DIVISIONAL OFFICER,
PALA, KOTTAYAM DISTRICT-686 575.**
 - 3. THE TAHSILDAR,
VAIKOM, KOTTAYAM DISTRICT-686 141.**
 - 4. THE VILLAGE OFFICER,
NEEZHOOR-686 612, KOTTAYAM DISTRICT.**
 - 5. THE AGRICULTURAL OFFICER,
NEEZHOOR - 686 612, KOTTAYAM DISTRICT (THE CONVENER
LOCAL LEVEL MONITORING COMMITTEE
NEEZHOOR PANCHAYATH).**
 - 6. STATE OF KERALA REPRESENTED BY THE COMMISSIONER
OF LAND REVENUE, PUBLIC OFFICE BUILDING, NEAR MUSEUM
THIRUVANANTHAPURAM - 695 001.**
- R2 & R3 BY SENIOR GOVERNMENT PLEADER SRI. MUHAMMED SHAFI M.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: PHOTOCOPY OF THE ORDER NO.C5-8492/2011 DATED 31.1.2012 PASSED BY THE ADDL. TAHSILDAR, VAIKOM.
- EXHIBIT P2: PHOTOCOPY OF THE ORDER NO.C5-3583/12, 3584/12 DATED 24.12.2012 PASSED BY THE ADDL. TAHSILDAR, VAIKOM.
- EXHIBIT P3: PHOTOCOPY OF THE PETITION DATED 10.1.2013 SENT TO THE RESPONDENTS.
- EXHIBIT P4: PHOTOCOPY OF THE PARTITION DEED DATED 30.12.2004.
- EXHIBIT P5: PHOTOCOPY OF THE SALE DEED DATED 1ST DAY OF 'KANNI' 1125.
- EXHIBIT P6: PHOTOCOPY OF THE SALE DEED DATED 5.10.1989 EXECUTED IN FAVOUR OF THE PETITIONER.
- EXHIBIT P7: PHOTOCOPY OF THE SALE DEED DATED 17.11.1983.
- EXHIBIT P8: PHOTOCOPY OF THE SALE DEED DATED 5.10.1989 EXECUTED IN FAVOUR OF THE PETITIONER.
- EXHIBIT P9: PHOTOCOPY OF THE SALE DEED DATED 17.1.1989.
- EXHIBIT P10: PHOTOCOPY OF THE SALE DEED DATED 17.2.2007 .
- EXHIBIT P11: PHOTOCOPY OF THE LETTER DATED 18.2.2013 SENT TO ALL THE RESPONDENTS.
- EXHIBIT P12: PHOTOCOPY OF THE LETTER DATED 4.3.2013 ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P13: PHOTOCOPY OF THE LETTER DATED 3.10.2013 SENT TO THE 1ST AND 5TH RESPONDENTS.
- EXHIBIT P14: PHOTOCOPY OF THE JUDGMENT DATED 4.12.2013 IN WP(C) NO.27037/2013 PASSED BY THIS HON'BLE COURT.
- EXHIBIT P15: PHOTOCOPY OF THE ORDER DATED 12.3.2014 PASSED BY THE 2ND RESPONDENT.
- EXHIBIT P16: PHOTOCOPY OF THE DECISION, REPORTED IN 2012(3) KHC 273 JALAJA DILEEP VS. R.D.O & OTHERS.
- EXHIBIT P16: PHOTOCOPY OF THE DECISION, REPORTED IN 2014(1) KLT 161 REVENUE DIVISION OFFICER VS. JALAJA DILEEP.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.14280 of 2014

Dated this the 12th day of January, 2015

JUDGMENT

The petitioner and his wife are the owners of the property having an extent of 87.60 Ares comprised in Re-survey No.4/7 of the Neezhoor Village. According to the petitioner, 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, though it has been described as 'Nilam nikathu purayidam' in the revenue records, such as Basic Tax Register and 'Thandaper Register'. Even though the petitioner had approached the Revenue Authorities by filing necessary representation as early as on 10.01.2013 for effecting correction in the said records, it did not turn to be fruitful. Being aggrieved of this, the petitioner had approached this Court by filing WP(C) No.27037 of 2013, which was disposed of as per Ext.P14 judgment dated 04.12.2013. Pursuant to Ext.P14 judgment, the matter was considered by the 2nd respondent, who passed Ext.P15 order dated 12.03.2014. The gist of the order is to the effect that, no competent authority has been notified by

the Government so as to redress the grievance of the petitioner herein. This made the petitioner to approach this Court by filing the writ petition.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

3. The undisputed fact is that the property belonging to the petitioner was reclaimed nearly 1½ decades prior to the date of commencement of the Act 28 of 2008. This being the position, the provisions of the said Act are not applicable to the property belonging to the petitioner. By virtue of the factual position, it is necessary to effect the necessary corrections in the BTR, so as to enable the parties concerned to enjoy the property in a better manner. A decision was rendered by a Single Bench of this Court in **2012 (3) KHC 273 (Jalaja Dileep Vs. Revenue Divisional Officer)**, whereby the concerned Tahsildar was required to effect the necessary changes under similar circumstance. The State took up the matter in appeal and finally the said verdict has been affirmed by the Division Bench of this Court as per judgment reported in **2014(1) KLT 161 (Revenue Divisional Officer V. Jalaja Dileep)**.

In the said circumstances, this Court finds that the petitioner is entitled to have the similar relief. It is declared that the property belonging to the petitioner is now lying as a 'reclaimed land' and as such, necessary corrections have to be effected in the BTR. The 3rd respondent is directed to effect the necessary corrections in the BTR, in connection with the said property, forthwith, at any rate, within 'one month' from the date of receipt of a copy of this judgment. It is also made clear that, this however shall be subject to the outcome of the SLP (Civil) No.3172 of 2014 stated as preferred by the State/ Department, which is pending consideration before the Apex Court.

The writ petition is disposed of as above.

The petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the 3rd respondent, for further steps.

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

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