

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

WP(C).No. 14720 of 2015 (L)

PETITIONER(S):

**RAVI V.P., AGED 64 YEARS,
S/O. PADMANABHAN, VATTAMTHATTAYIL, MUVATTUPUZHA P.O.,
MARADI VILLAG, E MUVATTUPUZHA TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. REVENUE DIVISIONAL OFFICER,
(R.D.O), MUVATTUPUZHA, ERNAKULAM DISTRICT-686 673.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT-682 030.**

BY GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
27-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 14720 of 2015 (L)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE TAX RECEIPT DATED 23.4.2014 ISSUED BY THE VELLORKUNNAM VILLAGE OFFICER.

EXHIBIT P2: TRUE COPY OF THE TAX RECEIPT DATED 25.3.2014 ISSUED BY THE VELLORKUNNAM VILLAGE OFFICER.

EXHIBIT P3: TRUE COPY OF THE RELEVANT PAGES OF DRAFT DATA BANK ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, MUVATTUPUZHA.

EXHIBIT P4: TRUE COPY OF THE APPLICATION DATED 28.4.2015 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT WITH THE COPY TO THE SECOND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms^v/

K. VINOD CHANDRAN, J.

W.P.C. No.14720 of 2015

Dated this the 27th day of May, 2015.

JUDGMENT

The petitioner is aggrieved with the non-consideration of the application filed under Clause 6 of the Kerala Land Utilisation Order for the purpose of utilisation of the land of the petitioner, which is shown as 'converted land' in the Draft Data Bank and which is alleged to have been filled up long prior to the introduction of the Kerala Conservation of Paddy Land and Wet Land Act, 2008. The Revenue authorities have refused to consider the same, since the property has been described as 'converted land' in the Draft Data Bank and it has been directed that the proper procedure is for the petitioner to approach under the Act of 2008.

2. The Hon'ble Supreme Court in **Revenue Divisional Officer, Fort Kochi and others v. Jalaja Dileep and another** [2015 (2) KHC 109 (SC)], while considering the issue of whether the description in the Basic Tax Register could be rectified,

considered the issue of conversion of utilisation of lands which were converted prior to the Act of 2008 in paragraphs 17 and 23, as 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 alongwith material to substantiate their claim. In the facts and circumstances of the case, we make no order as to costs."

In the such circumstances, following the binding precedent of the Hon'ble Supreme Court, it is directed that the application filed under the Kerala Land Utilisation Order be considered in accordance with the aforesaid directions. If the property is found to be filled up prior to the Act of 2008, the consideration shall be made for utilisation, 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.

The writ petition is disposed of.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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