

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 18778 of 2012 (V)

PETITIONER(S):

- 1. P.K. ABDU SAMAD, S/O.MOHAMMED KUTTY,
AGED 58 YEARS, PALA MADHATHIL KANNATTIL HOUSE,
UKKATH P.O., KUTTUR NORTH,
MALAPPURAM DISTRICT, PIN - 676 305.**
- 2. P.K. SAINABA, D/O.KAMMINI HAJI,
AGED 65 YEARS, KANNATTIL HOUSE,
UKKATH P.O., KUTTUR NORTH, VIA A.R. NAGAR,
MALAPPURAM DISTRICT, PIN - 676 308.**
- 3. NANGARATH UMMUKULSU, D/O.ABOOBACKER HAJI,
AGED 55 YEARS, KARAN THODIYIL HOUSE,
UKKATH P.O., MALAPPURAM DISTRICT, PIN - 676 305.**

**BY ADVS.SRI.M.R.HARIRAJ,
SMT.VINEETHA B.,
SMT.T.J.MARIA GORETTI,
SMT.V.V.RISANI.**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF AGRICULTURE,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. COMMISSIONER,
THE LAND REVENUE COMMISSIONERATE,
THIRUVANANTHAPURAM, PIN - 695 001.**
- 3. THE DISTRICT COLLECTOR,
MALAPPURAM, PIN - 676 001.**
- 4. THE PRINCIPAL AGRICULTURAL OFFICER,
MALAPPURAM, PIN - 676 001.**

5. ADBURAHIMAN NAGAR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, A.R. NAGAR P.O.,
MALAPPURAM, PIN - 676 001.
 6. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM DISTRICT, PIN - 676 001.
 7. SUHARA P.P.,
D/O.LATE PALAMADHATHIL MOIDEEN KUTTY HAJI,
KOPPOTH HOUSE, P.O. PANG SOUTH,
VIA KALATHUR, MALAPPURAM DISTRICT, PIN - 679 338.
 8. KADEEJA P.P.,
W/O.SALAHUDEEN, ATHANIKKAL HOUSE, P.O. MOKKAM,
MALAPPURAM DISTRICT, PIN - 673 642.
 9. SOUDHA P.P.,
W/O.ABDUL AZEEZ, UPOTHIL HOUSE, OZHINJANA P.O.,
MALAPPURAM DISTRICT, PIN - 676 313.
 10. SHAKEELA P.P.,
W/O.K.M. KOYAMU, GANDHI NAGAR VIA KOTTAKKAL,
P.O. OTHUKKUNGAL, MALAPPURAM DISTRICT, PIN - 676 342.
- R1 TO R4 & R6 BY GOVT. PLEADER SRI.S. ABDUL SALAM.
R5 BY ADVS. SRI.K.T.SHYAMKUMAR,
SRI.HARISH R. MENON.
R7 TO R10 BY ADVS. SRI.K.M.SATHYANATHA MENON,
SMT.KAVERY S THAMPI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE ORDER NO.GO(MS) NO.124/2012/AGRICULTURE DATED 22/05/2012.
- EXT.P2 COPY OF THE STATEMENT FILED BY THE 6TH RESPONDENT DATED 27/08/2006 BEFORE THE LEARNED LOK AYUKTHA IN COMPLAINT NO.585/2006.
- EXT.P3 COPY OF THE ORDER DATED 08/06/2006 OF THE LEARNED LAKAYUKTHA IN COMPLAINT NO.585/2006.
- EXT.P4 COPY OF THE NEWSPAPER REPORTS IN THE MADHYAMAM DAILY.
- EXT.P5 COPY OF THE REPRESENTATION DATED 09/06/2009 BY THE PETITIONERS.
- EXT.P6 COPY OF THE ORDER NO.D3-30515/2008 DATED 08/01/2009 OF THE 6TH RESPONDENT.
- EXT.P7 COPY OF THE REQUEST DATED 14/05/2012 SUBMITTED BY THE PTI TO THE DPI.
- EXT.P8 COPY OF THE REPLY DATED 04/06/2012 ISSUED BY THE PUBLIC INFORMATION OFFICER.
- EXT.P8 (IN I.A NO.11691/2012): COPY OF THE PHOTOGRAPH TAKEN IN JUNE 2012.
- EXT.P9 COPY OF THE PHOTOGRAPH TEKEN ON 12/08/2012.
- EXT.P10 COPY OF THE REPORT IN MADHYAMAM DAILY ON 13/08/2012.

RESPONDENT'S EXHIBITS:-

- EXT.R7A COPY OF THE REPRESENTATION DATED 09/10/2007.
- EXT.R7B COPY OF THE CERTIFICATE DATED 31/03/2008 ISSUED BY THE REVENUE AUTHORITIES.
- EXT.R7C COPY OF THE ORDER OF THE DEPUTY DIRECTOR OF EDUCATION DATED 15/05/2006.
- EXT.R7D COPY OF THE CIRCULAR ISSUED BY THE DEPUTY DIRECTOR OF EDUCATION DATED 17/12/2007.
- EXT.R7E COPY OF THE GOVERNMENT ORDER DATED 30/06/2010.

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- EXT.R7F** COPY OF THE COMMUNICATION DATED 07/06/2011 OF THE DISTRICT OFFICER, TIRUR.
- EXT.R7G** COPY OF THE LETTER DATED 24/02/2012 SENT BY THE PANCHAYATH DEPUTY DIRECTOR, MALAPPURAM TO THE 5TH RESPONDENT.
- EXT.R7H** COPY OF THE LETTER DATED 16/04/2011 SENT BY THE ASSISTANT EDUCATIONAL OFFICER, VENGARA TO THE 5TH RESPONDENT.
- EXT.R7I** COPY OF THE COMMUNICATION DATED 19/04/2010 OF THE HEADMISTRESS OF THE SCHOOL.
- EXT.R7J** COPY OF THE INAUGURATION LETTER OF THE SCHOOL BUILDING ISSUED BY THE 5TH RESPONDENT.
- EXT.R7K** COPY OF THE REPORT OF THE REVENUE DIVISIONAL OFFICER, TIRUR DATED 14/11/2011.
- EXT.R7L** COPY OF THE REPRESENTATION SUBMITTED BY THE HEADMASTER OF SCHOOL TO THE ASSISTANT EDUCATIONAL OFFICER, VENGARA.
- EXT.R7M** COPY OF THE ORDER DATED 23/06/2010 OF THE UP LOK AYUKTA IN COMPLAINT NO.1348/2008.
- EXT.R7N** COPY OF THE ORDER OF THE GOVERNMENT DATED 18/04/2013.
- EXT.R7O** COPY OF THE COMMUNICATION OF THE DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM DATED 24/12/2014.
- EXT.R7P** COPY OF THE DECISION OF THE ABDU RAHIMAN NAGAR GRAMA PANCHAYATH DATED 09/01/2015.
- EXT.R7Q** COPY OF THE PROCEEDINGS OF THE ASSISTANT EDUCATIONAL OFFICER, VENGARA DATED 20/01/2015.
- EXT.R7R** COPY OF THE COMMUNICATION DATED 04/02/2015 ISSUED BY THE HEADMASTER OF THE GOVERNMENT UPPER PRIMARY SCHOOL, ABDURAHIMAN NAGAR.
- EXT.R7S** COPY OF THE JUDGMENT DATED 03/03/2015 IN WP(C).NO.2687/2009.

//TRUE COPY//

PA. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 15th day of July, 2015.

JUDGMENT

The petitioner was aggrieved with Ext.P1 order, which according to him was for permission for construction of a School in a paddy land, exemption of which had been granted under Section 10 of the Kerala Conservation of Paddy Lands and Wet Lands Act, 2008 [for brevity, the Act of 2008]. The documents produced as per I.A. No.9544 of 2015 by the 7th respondent shows that the Government had in fact granted exemption under Section 10 of the Act of 2008 and the School has been constructed in the Panchayat land itself.

2. The learned Government Pleader also submits that, the land, on which construction is carried on, is bounded on all sides by converted land and that there is a concrete boundary also, making it unviable for cultivation.

In such circumstance, the writ petition would stand closed.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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