

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

WP(C).NO. 18934 OF 2012 (N)

PETITIONER:

SIDDIQUE, AGED 47 YEARS,
S/O.MOHAMMEDALI, KOTILANCHERY HOUSE, PANANGAD.P.O,
ERNAKULAM.

BY ADVS.SRI.RENJITH THAMPAN (SR.)
SRI.V.M.KRISHNAKUMAR

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY SECRETARY, GOVERNMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.
2. SECRETARY,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
3. LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM, PIN-695001.
4. DISTRICT COLLECTOR,
ERNAKULAM, PIN-682031.

BY ADV. GOVERNMENT PLEADER, SRI. R.K. RAFAEK

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE PROCEEDINGS DTD.19.5.2012 OF THE DISTRICT
COLLECTOR, ERNAKULAM.

EXT.P2 : TRUE COPY OF THE PROCEEDINGS DTD.6.7.2012 OF THE DISTRICT
COLLECTOR, ERNAKULAM.

RESPONDENTS' EXHIBITS :

EXHIBIT R3(A) :A TRUE COPY OF THE LETTER SENT BY THE LAND REVENUE
COMMISSIONER ON 06.08.2012.

EXHIBIT R3(B) :A TRUE COPY OF THE CIRCULAR ISSUED BY THE 3RD OFFICE
DATED 12.03.2012.

EXHIBIT R3(C) :A TRUE COPY OF THE COMMUNICATION TO DISTRICT COLLECTOR
FROM THE OFFICE OF THE 3RD RESPONDENT DATED 03.09.2012.

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.18934 of 2012

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Dated this the 16th day of November, 2015

J U D G M E N T

This writ petition has been filed with a prayer to make a declaration that the 3rd and 4th respondents have no authority to interfere with the preparation of Data Bank provided under Section 5(4) of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (*for short, 'the Act'*) and to issue a writ of mandamus commanding the 1st respondent to publish the Data Bank prepared under Section 5(4) of the aforesaid Act by the respective Local Level Monitoring Committees, within such time, as may be fixed by this Court and also to call for records leading to Exts.P1 & P2 and issue a writ of certiorari quashing Exts.P1 & P2.

2. Going by the averments in the writ petition, the

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apprehension expressed by the petitioner is that the respondents 1 to 3 holding different positions in the Revenue Department are trying to interfere with the preparation of the Data Bank under the Act with an intent to sideline the Local Level Monitoring Committees constituted under Section 5 of the Act. To substantiate the above contention, the petitioner has produced Exts.P1&P2 circulars issued by the 4th respondent District Collector, Ernakulam, constituting a committee under the leadership of Tahsildar for scrutinising the anomalies in the Data Bank of their respective revenue area and also directing them to make recommendations to correct the anomalies crept in the Data Bank.

2. The sum and substance of the petitioner's case is that when the Legislature in exercise of its wisdom has constituted a Committee, consisting of officials and

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farmers with expertise and experience to monitor the paddy cultivation and to prevent the illegal reclamation of the paddy land, the 4th respondent has constituted different Committees, under the instruction of the 3rd respondent to interfere with the powers of the Statutory Committee and the intention of respondents 3 and 4 is to intrude into the domain of the Statutory Committee and such an attempt is illegal and is ultra vires of the statutory mandate of the Committee.

3. Per contra, the learned Government Pleader advanced arguments to justify the constitution of different Committees to find out the anomalies in the preparation of the Data Bank and also to bring up such anomalies to the notice of the Statutory Committee constituted under Section 5 of the Act and the Rules framed thereunder. According to the learned

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Government Pleader, the aim and object of constitution of different Committees under Exts.P1 and P2 are to help the farmers as well as the land owners, who are aggrieved by the anomalies of the Data Bank, which was prepared on the basis of the satellite pictures.

4. In view of the rival submissions, the short point that arises for consideration in this Writ Petition is, whether there is any illegality or impropriety in the constitution of different Committees under the leadership of the Revenue Officials, to find out the anomalies said to have been crept in the preparation of Data Bank.

5. According to Section 5 of the Act, a Local Level Monitoring Committee under the chairmanship of the Grama Panchayat or the Municipality or Corporation, as the case may be, and consists of an Agricultural Officer,

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Village Officer and three representatives of the farmers in the Panchayat/Municipality/Corporation is constituted to prepare the Data Bank and also for the purpose of monitoring the implementation of the provisions of the Act. So also, as per sub-sections (3) to (6) of Section 5 of the Act, wide powers are given to the said Local Level Monitoring Committee to inspect the paddy land situated within the jurisdiction of the Committee and to examine the complaints received from the public regarding the attempt to violate the provisions of the act, to examine the reasons for keeping the paddy land fallow, to make alternative arrangement under Section 16 where the paddy land is left fallow, to prepare detailed guidelines for the protection of the paddy lands/wet lands in the areas under the jurisdiction of the Committee and to collect the details of the paddy land within the area of

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jurisdiction of the Committee, reclaimed in contravention of the provisions of any law for the time being in force and also to perform such other functions, as may be prescribed from time to time.

6. Going by Exts.P1 and P2, as rightly submitted by the learned Government Pleader, it is seen that different Committees are constituted under the leadership of Tahsildars. As regards the aim and object of Exts.P1 and P2, in the counter affidavit filed by the 3rd respondent, it is specifically stated that the issuance of Exts.P1 and P2 Circulars by the 3rd respondent is an attempt to bring to the notice of the Local Level Monitoring Committee the discrepancies crept in the draft Data Bank, if any, noticed during the random check ordered therein. There is no attempt on the part of the respondents to sideline the Local Level Monitoring

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Committee and the respondents are fully aware of the provisions under Section 5(4)(i) of the Act and Rule 4(2) (a) of the Rules. Hence, the District Collectors have been directed to hand over the list of such discrepancies if any, noticed by a special team constituted by the Local Level Monitoring Committee, for appropriate action under the provisions of the Act and the communication had been sent to all District Collectors for the purpose. The copy of the said communication dated 03.09.2012 is also produced as R3(c) and Exts.P1 and P2 have been issued in pursuance to the direction given by the 3rd respondent.

7. Going by Ext.R3(c), the basic order under which Exts.P1 and P2 have been issued, it is seen that the role of Local Level Monitoring Committee under Section 5(4) (i) of the Act and Rule 4(2)(a) of the Rules has been

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specifically emphasized and the Revenue Officers were directed to detect the anomalies and point out the same to the Local Level Monitoring Committee only. Thus, no power has been given to the Revenue authorities to interfere with the power of the Local Level Monitoring Committee under Section 5 of the Act. It is specifically stated that anomalies and defects detected by their scrutiny must be handed over to the Local Level Monitoring Committee constituted under Section 5 of the Act and the Rules made thereunder. In view of Ext.R3 (c), I find that the constitution of different Committees under Exts.P1 and P2 is a *bona fide* attempt to help the land owners, who are suffering due to the anomalies in the Data Bank. So also, I find that there was no attempt from the part of respondents 3 and 4 or from the Committees constituted under Exts.P1 and P2 to

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interfere with the statutory power granted to the Local Level Monitoring Committee under Section 5 of the Act. Therefore, in this analysis, I do not find any reason to interfere with the constitution of the Committees.

Therefore, this Writ Petition will stand disposed of with the above observations.

Sd/-

**K. HARILAL,
JUDGE**

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//True copy//

P.A. To Judge