

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 15328 of 2015 (M)

PETITIONER :

**NIRMALA NAIR, AGED 67 YEARS,
W/O. M.DAMODRAN NAIR AND RESIDING AT A 1 1,
SREEPARVATHY APPARTMENTS, PERUMBOTTA ROAD,
ELAMAKKARA, ERNAKULAM.**

**BY ADVS.SRI.JAISHANKAR V.NAIR
SMT.ARATHI KARUNAKARAN
SMT.PARVATHY S.KRISHNAN**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
KAKKANAD, ERNAKULAM - 682 030.**
- 2. THE LOCAL LEVEL MONITORING COMMITTEE,
ALUVA EAST VILLAGE, REPRESENTED BY AGRICULTURAL OFFICER,
ALUVA EAST VILLAGE, ERNAKULAM - 682 101.**
- 3. THE VILLAGE OFFICER,
ALUVA EAST VILLAGE, ERNAKULAM - 682 101.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 15328 of 2015 (M)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE APPLICATION DATED 01/01/2015.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J

W.P(C) No.15328 of 2015

Dated this the 26th day of May, 2015

J U D G M E N T

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 'nilam' in the Revenue Records 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 'nilam' in the Revenue Records 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, while considering the issue of whether the description in the Basic Tax Register could be

corrected, considered the issue of conversion of utilisation of lands which were converted prior to the Act of 2008 in paragraphs 17 and 23, 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.

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, 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)

jma

///true copy///

P.A to Judge