

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

WP(C).No. 15698 of 2015 (J)

PETITIONER(S) :

1. SANTHOSH,
AGED 45 YEARS, PALLATH HOUSE,
(MANIKATTUPARAMBIL), KONGORPILLY,
ALANGADU, ALUVA-683 518.
2. BINDU,
AGED 42 YEARS, W/O.SANTHOSH,
PALLATH HOUSE, (MANIKATTUPARAMBIL),
KONGORPILLY, ALANGADU, ALUVA-683 518.

BY ADV. SRI.LIFFY P. FRANCIS.

RESPONDENT(S) :

1. THE SECRETARY,
ALANGADU GRAMA PANCHAYAT,
ALANGADU, ALUVA-683 518.
2. VILLAGE OFFICER, ALANGADU,
ALUVA, PIN-683 518.
3. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, ERNAKULAM.
4. DISTRICT COLLECTOR,
ERNAKULAM, PIN-682 030.

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1: THE TRUE COPY OF KUDIKIDAPPU CERTIFICATE NO.OA 538/71
ISSUED FROM LAND TRIBUNAL.
- EXT. P2 : THE COPY OF RATION CARD ISSUED FROM CIVIL SUPPLIES.
- EXT. P3 : THE TRUE COPY OF BUILDING TAX RECEIPT DATED
28-10-1999.
- EXT. P4 : THE TRUE COPY OF POSSESSION CERTIFICATE ISSUED FROM
VILLAGE OFFICE ALANGAD 31-12-2014.
- EXT. P5 : THE TRUE COPY OF POSSESSION CERTIFICATE ISSUED FROM
VILLAGE OFFICE ALANGAD 3-5-2014.
- EXT. P6 : THE TRUE COPY OF LOCATION SKETCH PREPARED BY VILLAGE
OFFICE ALANGAD DATED 31-12-2014.
- EXT. P7: THE TRUE COPY OF REJECTION ORDER OF APPLICATION FOR
BUILDING PERMIT ISSUED FROM ALANGAD PANCHAYAT DATED
28-2-2015.
- EXT. P8: THE TRUE COPY OF BASIC TAX REGISTER OF PARAVOOR TALUK
OFFICE DATED 28-2-2015.
- EXT. P9: THE TRUE COPY OF LETTER ISSUED UNDER RIGHT TO
INFORMATION ACT FROM KRISHI BHAVAN ALANGADU DATED
23-3-2015.
- EXT. P10 : THE TRUE COPY OF PHOTOGRAPH OF THE PROPERTY.
- EXT. P11 : THE TRUE COPY OF APPLICATION FILED BEFORE RDO DATED
20-3-2015.
- EXT. P12 : THE TRUE COPY OF APPLICATION FILED BEFORE 4TH
RESPONDENT DISTRICT COLLECTOR DATED 10-4-2015.
- EXT. P13 : THE TRUE COPY OF POSTAL RECEIPT DATED 10-4-2015.
- EXT. P14 : THE TRUE COPY OF A/D CARD SIGNED BY 4TH RESPONDENT
DISTRICT COLLECTOR DATED 13-4-2015.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

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Dated this the 16th day of June, 2015

J U D G M E N T

The petitioners are aggrieved with the non-consideration of Ext.P12 application, by the District Collector. Ext.P12 is an application filed before the District Collector for correcting the classification of the petitioner's land as 'Purayidom' from that indicated in the BTR as 'Nilam'. The petitioners admittedly is in possession of a property having an extent of 10 cents with a residential building thereon. The building being in a dilapidated stage, the petitioners had demolished the building and also constructed a small residential house thereon. The 2nd petitioner is said to have purchased 2.4 Ares of property lying adjacent and to the east of the property.

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When the petitioners applied before the Local Self Government Institution, the 1st respondent herein, for construction of two shop rooms, the same was not considered on the ground that the land was classified as 'Nilam' in the BTR. This prompted the petitioner to make Ext.P12 application before the District Collector.

2. I have heard the counsel appearing for the petitioner as also the learned Special Government Pleader (Revenue).

3. The learned Special Government Pleader (Revenue) on instructions submits that, the property is not included in the draft Data Bank for the area prepared under the Kerala Conservation of Paddy Land and Wet Land Act 2008 (for brevity, 'the Act') and hence the proper procedure for the petitioner would be to approach the authorities under the Kerala Land

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Utilisation Order, 1967 (for brevity 'the KLU Order') for utilisation of the converted lands for residential purposes as has been held in **Revenue Divisional Officer v. Jalaja Dileep [2015 (1) KLT 984 SC]**. But, however, the Hon'ble Supreme Court held that there can be no ratification as such effected to the BTR.

4. In such circumstance, Ext.P12 may not be a proper application, which could be considered by the District Collector. However, the petitioner is granted liberty to file a proper application and to approach the authorities under the KLU Order for permission to utilise the land for other purposes. The mere fact that the conversion was effected earlier shall not deter the authorities; since the KLU Order provides for permission for conversion as also different utilisation. After such permission is obtained, it would also be permissible for the petitioner to approach the revenue authorities for fresh assessment of the

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land as per the conversion effected under the The Kerala Land Tax Act, 1961 going by the binding precedent in **Kizhakkambalam Grama Panchayat v. Mariumma [2015(2) KLT 516]**.

The writ petition is disposed of with the above observations.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //

P.A to Judge