

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 17TH DAY OF AUGUST 2015 / 26TH SRAVANA, 1937

WP(C).No. 18430 of 2015 (C)

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PETITIONER :

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MANOJ. P,  
AGED 34 YEARS,  
S/O. GOPALAN, PALASSERY HOUSE, P.O.IKKARAPADI,  
MALAPPURAM DISTRICT – 673 637.

BY ADVS.SRI.BINOY VASUDEVAN  
SMT.P.G.BABITHA

RESPONDENT :

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THE LOCAL LEVEL MONITORING COMMITTEE,  
(KODIYATHUR GRAMA PANCHAYAT),  
REPRESENTED BY ITS CONVENER,  
THE AGRICULTURAL OFFICER, KRISHI BHAVAN,  
KODIYATHUR P.O., MALAPPURAM DISTRICT – 673 602.

BY SPL.GOVERNMENT PLEADER SRI.P.K.SOYUS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18430 of 2015 (C)

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APPENDIX

PETITIONER'S EXHIBITS :-

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- P1 – TRUE COPY OF THE DOCUMENT NO.1212/2015 OF S.R.O MUKKAM.
- P2 – TRUE COPY OF DOCUMENT NO. 1213/2015 BY WHICH THE PETITIONER PURCHASED THE PROPERTY.
- P3 – TRUE COPY OF THE LAND TAX RECEIPT ISSUED IN RESPECT OF THE PROPERTIES COVERED BY EXT. P1 DOCUMENT.
- P4 – TRUE COPY OF THE LAND TAX RECEIPT ISSUED IN RESPECT OF THE PROPERTIES COVERED BY EXT. P2 DOCUMENT.
- P5 – TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER'S PROPERTY.
- P6 – TRUE COPY OF THE REQUEST OF THE PETITIONER SUBMITTED BEFORE THE RESPONDENT SEEKING TO DELETE THE ENTRY OF THE PROPERTY FROM THE DATA BANK.

RESPONDENT'S EXHIBITS :- NIL.

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**ANIL K.NARENDRA, J.**

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**W.P.(C)No.18430 of 2015**  
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**Dated this the 17<sup>th</sup> day of August, 2015**

**JUDGMENT**

The petitioner is stated to be the absolute owner in possession of 36.6254 Ares (90.5 cents) of dry land located in Re.survey No.71/2 of Kodyathur Village in Kozhikode Taluk, covered by Ext.P1 sale deed and another extent of 21.32 Ares (52.68 cents) of dry land in the very same Survey Number which is lying contiguously, which is covered by Ext.P2 sale deed. Exts.P3 and P4 are the tax receipts in respect of properties covered by Exts.P1 and P2 sale deeds. Relying on Ext.P4 photographs the petitioner would contend that the property covered by Exts.P1 and P2 is neither a paddy land nor a wet land and hence the provisions of the Kerala Conservation of Paddy and Wet Land Act, 2008 have no application.

2. When the petitioner had approached the Kodyathur Grama Panchayat in order to ascertain the possibility of obtaining the building permit, he was informed that the property in Sy.No.71/2 is included in the data bank and hence no building permit can be granted. In such circumstances, the petitioner has

submitted Ext.P6 representation before the respondent for deleting his property covered by Exts.P1 and P2 from the data bank. It is thereafter, the petitioner has approached this Court in this writ petition seeking a writ of mandamus commanding the respondent to consider Ext.P6 request and to delete his properties covered by Exts.P1 and P2 from the data bank, in the light of the principles laid down by this Court in **Adani Infrastructure and Developers Private Ltd. Vs. State of Kerala (2015 (1) KLT 651)**.

3. By order dated 29.6.2015, this Court directed the Agricultural Officer, who is the Convener of the Local Level Monitoring Committee to inspect the properties along with the Village Officer and file a report as to the exact nature of the property. Pursuant to the above order, a statement has been filed on behalf of the respondent, which reads thus:-

"1. It is submitted that as directed by this Hon'ble Court, this respondent along with other members of the respondent committee inspected the property of petitioner at 10.30 am on 14.07.2015 with notice to the petitioner. At the time of inspection petitioner was also present in the property. On inspection about 65 Mahogani trees aged 10 to 15 years and about 150 Arecanut palms aged more than

10 years were found in the property.

2. The properties situated on the South and West of petitioner's property were lowered by about one meter by excavating soil, thereby depriving petitioners property of water. Hence petitioners property has been rendered unsuitable for paddy cultivation."

4. I heard the arguments of the learned counsel for the petitioner and also the learned Special Government Pleader appearing for the respondent.

5. A perusal of the statement filed by the respondent dated 16.7.2015 indicates that the property owned by the petitioner covered by Exts.P1 and P2 sale deed is neither a wet land nor a paddy land falling within the provisions of the Kerala Conservation of Paddy and Wet Land Act, 2008.

6. In such circumstances, this writ petition is disposed of directing the respondent to consider Ext.P6 representation and take necessary steps to delete the property covered by Ext.P1 and P2 in Re.survey No.71/2 of Kodyathur Village in Kozhikode Taluk having an extent of 36.6254 Ares (90.5 cents), 21.32 Ares (52.68 cents) respectively from the data bank. Appropriate steps shall be taken by the competent authority for causing the notification of the same, if

necessary, by way of appropriate proceedings. The proceedings in this regard shall be taken and completed at the earliest, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

**ANIL K.NARENDRA, JUDGE**

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