IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 18814 of 2015 (B)

PETITIONER:

BABY JACOB, S/O JACOB, AGED 50 YEARS,
THUNDATHIL, KALAYANTHANI.P.O,
ALAKKODE VILLAGE, THODUPUZHA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S) :
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1. THE REVENUE DIVISIONAL OFFICER (R.D.O), IDUKKI DISTRICT-688 588.

2. THE DISTRICT COLLECTOR, IDUKKI DISTRICT-685 588.

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 18814 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 TRUE COPY OF THE TAX RECEIPT DATED 6.4.2015 ISSUED BY THE ALAKKODE VILLAGE OFFICER

P2 TRUE COPY OF THE TITLE DEED OF THE PETITIONER DATED 12.01.2015

P3 TRUE PHOTOGRAPHS OF THE PROPERTY OF PETITIONER

P4 TRUE COPY OF THE RELEVANT PAGES OF DRAFT DATA BANK PREPARED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT 2008

P5 TRUE COPY OF THE APPLICATION DATED 25.05.2015 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, ALAKODE GRAMA PANCHAYATH

P6 TRUE COPY OF THE RECEIPT ISSUED BY THE SECRETARY, ALANKODE PANCHAYATH TO THE PETITIONER DATED 27.05.2015

P7 TRUE COPY OF THE APPLICATION DATED 30.5.2015 SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT WITH COPY TO THE SECOND RESPONDENT UNDER THE PROVISIONS OF THE KERALA LAND UTILIZATION ORDER,1967.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

W.P.(C) No. 18814 of 2015 (B)

Dated this the 23rd day of June, 2015

J U D G M E N T

The petitioner has filed the above writ petition for correction of the description in the Basic Tax Register (BTR), of 0.0899 hectors situated in Block No.32, Re-Survey No.86/1 of Alakkode Village, Idukki District. The Supreme Court in **RDO v. Jalaja Dileep - 2015(2) KHC 109(SC)** considered the issue of rectification of description in the Basic Tax Register and held that the same is not permissible. However, with respect to conversion and utilisation of lands which are not covered or were converted prior to bringing into force of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act') it was held so in paragraphs 17 and 23, which are 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.
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> xxx xxx xxx
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> 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 along with material to substantiate their claim. In the facts and circumstances of the case, we make no order as to costs."

In such circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the lands are not included in the draft Data Bank prepared under the Paddy Land Act for the area as converted land. The petitioner then has to approach the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. Such an application is filed at Ext.P7. If the property is found to be utilised for a different purpose prior to the Paddy Land Act, 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, in accordance with **Dileep Kumar v. State of Kerala - 2014 (4) KLT 200**. Subsequent to such a finding the petitioner could also approach the appropriate authority under the Kerala Land Tax Act for fresh assessment of the land, as directed to be utilised under the KLU order, as has been held in **Kizhakkambalam Grama Panchayath V. Mariumma - 2015(2) KLT 516.**

The Writ Petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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