

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 18835 of 2015 (D)

PETITIONER :

**USHA VENKATESH,
SREEKARA MADOM, A.N.PURAM,
MULLACKAL VILLAGE, ALAPPUZHA.**

**BY ADVS.SRI.A.KUMAR
SRI.P.J.ANILKUMAR
SMT.G.MINI
SRI.P.S.SREE PRASAD**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY-AGRICULTURE
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. DISTRICT COLLECTOR, CIVIL STATION,
ALAPPUZHA-688 001.**
- 3. SUB-COLLECTOR, REVENUE DIVISIONAL OFFICE,
ALAPPUZHA-688 001.**
- 4. TAHASILDAR, AMBALAPPUZHA TALUK OFFICE,
ALAPPUZHA-688 001.**
- 5. VILLAGE OFFICER, PARAVOOR VILLAGE,
ALAPPUZHA-688 003.**
- 6. AGRICULTURAL OFFICER, PUNNAPRA NORTH,
KRISHI BHAVAN, PUNNAPPRA-688 014.**
- 7. PUNNAPRA NORTH GRAMA PANCHAYATH,
PUNNAPRA P.O., ALAPPUZHA-688 014.**
- 8. KALARKODE VENUGOPALAN NAIR, GEETHA BHAVAN,
SANATHANAPURAM P.O., ALAPPUZHA-688 003.**

**R1 TO R6 BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN
R8 BY SRI.KALARKODE VENUGOPALAN NAIR(PARTY-IN-PERSON)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 A TRUE COPY OF THE DOCUMENT RECOGNIZING HER SERVICES BY
GOVERNMENT OF GUJARAT
- P2 A TRUE COPY OF THE SALE DEED NO.338/04 OF ALAPPUZHA SRO DATED
22/01/2004
- P3 A TRUE COPY OF THE PERMIT DATED AND 23/01/2009 ISSUED BY THE 7TH
RESPONDENT
- P4 A TRUE COPY OF THE PROPERTY TAX RECEIPT DATED 15/2/2012 ISSUED BY
THE 7TH RESPONDENT
- P5 A TRUE COPY OF THE PERMIT DATED 23/12/2009 ISSUED BY THE 7TH
RESPONDENT
- P6 A TRUE COPY OF THE PERMIT DATED 17/4/2010 IN THE NAME OF THE
PETITIONER
- P7 A TRUE COPY OF THE BUILDING PERMIT DATED 25/01/2013 ISSUED BY THE
7TH RESPONDENT
- P8 A TRUE COPY OF THE DRAFT AS PER THE DATA BANK
- P9 A TRUE COPY OF THE LETTER DATED 07/12/2012
- P10 A TRUE COPY OF THE REMINDER LETTER DATED 21/08/2013
- P11 A TRUE COPY OF THE SUBMISSION
- P12 A TRUE COPY OF THE ORDER OF THE DISTRICT COLLECTOR DATED
26/08/2014
- P13 A TRUE COPY OF THE JUDGMENT IN WP(C).NO.24994/2014 DATED 16/01/2015
- P14 A TRUE COPY OF THE REVISION PETITION WITHOUT ANNEXURE
- P15 A TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DATED
19/06/2015
- P16 A TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER DATED 28/04/2015.

RESPONDENT(S)' EXHIBITS AND ANNEXURES:

- R8(A) COPY OF THE OBJECTION SUBMITTED BY THE 8TH RESPONDENT IN
REVISION NO.63/NCA 3/15/AGRL BEFORE THE 1ST RESPONDENT

WP(C).NO.18835/2015

R8(B) COPY OF THE PROCEEDINGS INITIATED BEFORE THE 2ND RESPONDENT DISTRICT COLLECTOR.

R8(C) COPY OF THE PROCEEDINGS INITIATED BEFORE THE 2ND RESPONDENT DISTRICT COLLECTOR.

R8(C) COPY OF THE PROCEEDINGS INITIATED BEFORE THE 2ND RESPONDENT DISTRICT COLLECTOR DATED 22/1/2014.

R5(A) COPY OF THE RELEVANT PAGE OF DRAFT DATA BANK

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

W.P.(C).No. 18835 of 2015

Dated this the 1st day of October, 2015

J U D G M E N T

The petitioner is the owner and in possession of the property in Resurvey No.44/11 in Block No.10 of Paravoor North Village of Ambalapuzha Taluk. The petitioner purchased this property in the year 2004.

2. The petitioner, based on a permit obtained by a local authority, constructed a school. The petitioner approached this Court challenging the orders passed by the authority under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as Act 28 of 2008). It appears that the land has been reclaimed illegally and the petitioner has constructed the building in violation of Act 28 of 2008.

3. The petitioner submits that this land is not classified either as paddy, nilam or wet land under the Act 28 of 2008. The petitioner submits that no agricultural activity is being conducted in the property and the land is

lying fallow without any cultivation for the past 50 years.

4. The 8th respondent, who has been additionally impleaded raised a complaint against the petitioner. He was also heard in the matter. The 8th respondent would contend that this land is classified as nilam in the revenue records as well as under the provisions of Act 28 of 2008. He points out that the land was illegally reclaimed by the petitioner.

5. The learned Government Pleader would submit that this land is classified as wet land and has produced the draft data bank, as per Ext.R5(a).

6. Now the fact remains that there is a classification under the provisions of Act 28 of 2008. In that view of the matter, there is no infirmity with the orders passed by the authorities under Act 28 of 2008.

7. However, the petitioner has a case that this is a converted land before the enactment of Act 28 of 2008 and this land is erroneously included in the draft data bank.

8. This Court is of the view that the petitioner shall approach the Local Level Monitoring Committee to correct the entry relating to the land. The Local Level Monitoring Committee shall conduct a site inspection after notice to the petitioner and the 8th respondent and find out the status of the land as on the date of enactment of Act 28 of 2008. If the land cannot be classified either as paddy land or wetland or nilam, necessarily, corresponding changes shall be effected in the draft data bank.

9. If the description of land is corrected in the draft data bank, necessarily, impugned orders shall be revoked by the competent authority. If the Local Level Monitoring Committee find that there is no scope for correcting the entry relating to the draft data bank, the authorities are free to implement the impugned orders and appropriate action shall be taken against the petitioner for reclaiming the land illegally subject to any satisfactory evidence available against the petitioner.

10. The petitioner shall approach the Local Level Monitoring committee within a period of two weeks from the date of receipt of a copy of this judgment. Thereafter, the Local Level Monitoring Committee shall take a decision after hearing the petitioner and the 8th respondent within further a period of two months. The petitioner shall not undertake any construction till a final decision is taken in this matter.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE,
JUDGE**

jm/