IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY,THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

W.P.(C).No.18945 of 2015 (P)

PETITIONER(S):-

JOSE DANIEL, AGED 51 YEARS, S/O DANIEL,
VATTAVILA THEKKATHIL VEEDU, PULAMON PO,
KOTTARAKARA, KOLLAM DISTRICT.

BY ADV. SRI.K.V.ANIL KUMAR.

RESPONDENT(S):-

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1. THE DISTRICT COLLECTOR, KOLLAM,
COLLECTORATE, KOLLAM, PIN: 691001.

2. THE REVENUE DIVISIONAL OFFICER, KOLLAM,
COLLECTORATE, KOLLAM, PIN: 691001.

3. THE TAHSILDAR
THALUK OFFICE, KOTTARKAKKARA, KOLLAM DISTRICT,
PIN - 691001.

4. VILLAGE OFFICER
KOTTARAKKARA VILLAGE OFFICE, KOTTARAKARA (PO),
KOLLAM DISTRICT, PIN:691 506.

5. AGRICULTURE OFFICER,
KRISHI BHAVAN,KOTTARAKKARA , KOTTARAKARA (PO),
KOLLAM DISTRICT, PIN:691 506.

6. KOTTARAKKARA GRAMA PANCHAYATH ,
REPRESENTED BY ITS SECRETARY,KOTTARAKARA,
KOTTARAKARA (PO), KOLLAM DISTRICT, PIN:691 506.

R1 TO R5 BY GOVERNMENT PLEADER SRI.P.K.SOYUZ.
R6 BY ADV.SRI.T.M.ABDUL LATHEEF

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No.18945 of 2015 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXT.P1: A TRUE COPY OF THE LAND TAX RECEIPT NO. 1781005 DATED 16/6/14 ISSUED BY THE 4TH RESPONDENT.

EXT.P2: A TRUE COPY OF THE LAND TAX RECEIPT NO . 1781007 DATED 16/6/14 ISSUED BY THE 4TH RESPONDENT.

EXT,P3: A TRUE COPY OF BUILDING PERMIT ISSUED FROM THE OFFICE OF THE 6TH RESPONDENT.

EXT.P4: A TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED FROM THE DISTRICT INDUSTRIES CENTRE, KOLLAM DATED 28/3/1998.

EXT.P5: A TRUE COPY OF THE LICENSE DATED 28/2/1987 ISSUED BY THE 6 THE RESPONDENT.

EXT.P6: A TRUE COPY OF THE RENEWED LICENSE DATED 27/2/15 ISSUED BY THE 6TH RESPONDENT.

EXT.P7: A TRUE COPY OF THE DATA-BANK ISSUED FROM THE 5TH RESPONDENT.

EXT.P8: A TRUE COPY OF THE PHOTOGRAPH OF THE PETITIONER'S PROPERTY.

EXT.P9: A TRUE COPY OF THE RESPRESENTATION DATED 22/5/15 BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/- [true copy]

K. Vinod Chandran, J

W.P.(C).No.18945 of 2015-P

Dated this the 08th day of July, 2015

JUDGMENT

The petitioner is concerned with two properties, having respectively an extent of 10.44 ares and 9.22 ares, comprised in Re-survey Nos.301/21 and 301/2 of Kottarakkara Village. The petitioner's contention is that the said properties were converted long back, i.e, prior to the coming into force of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 [for brevity "Paddy Land Act"]. The petitioner has produced the extract of the Data Bank also, at Exhibit P7, wherein the said properties are shown as 'converted before 2008'.

2. 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 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 *inter alia* 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 inter alia 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.”

3. In the above circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the lands are not included in the Data Bank prepared under the Paddy Land Act for the area. 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.P9. If the property is found to be converted 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, based on the judgment of this Court in **W.P.(C) No.16683 of 2015** and connected cases, dated 30.06.2015 **[*Puthan Purakkal Joseph v. Sub Collector*].** 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.

vku/-

[true copy]