IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 19010 of 2015 (A)

PETITIONER(S):

BIMAL KRISHNA,
S/O.ANIRUDHAN, 'SHELTER', PARAVOOR VILLAGE,
ALAPPUZHA.

BY ADV. SRI.B.PRAMOD

RESPONDENT(S):
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1. THE DISTRICT COLLECTOR,
   ALAPPUZHA - 688 001.

2. THE REVENUE DIVISIONAL OFFICER
   ALAPPUZHA - 688 001.

3. THE TAHSILDAR,
   AMBALAPPUZHA TALUK, ALAPPUZHA DISTRICT - 688 001.

4. THE VILLAGE OFFICER,
   KALAVOOR VILLAGE, ALAPPUZHA DISTRICT - 688 001.

5. THE AGRICULTURAL OFFICER,
   KRISHI BHAVAN, MARARIKKULAM SOUTH, THE CONVENOR,
   LOCAL LEVEL MONITORING COMMITTEE, MARARIKKULAM SOUTH
   PANCHAYATH, ALAPPUZHA - 688 001.

BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 19010 of 2015 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

P1:-TRUE COPY OF THE BASIC TAX RECEIPT DTD. 27/2/2013.

P2:-TRUE COPY OF THE SALE DEED BEARING NO. 1448/99 OF MARARIKKULAM S. R. O.

P3:-TRUE COPY OF THE CERTIFICATE DTD. 19/12/2014 ISSUED BY THE 4TH RESPONDENT.

P4:-TRUE COPY OF THE APPLICATION DTD. 24/12/2014 SUBMITTED TO THE 2ND RESPONDENT.

P5:-TRUE COPY OF THE APPLICATION DTD. 12/1/2015 SUBMITTED BEFORE THE 5TH RESPONDENT.

P6:-TRUE COPY OF THE JUDGMENT DTD. 30/1/2015 IN WPC 2436/2015.

P7:-TRUE COPY OF THE LETTER DTD. 22/4/2015 ISSUED BY THE 5TH RESPONDENT.

P8:-TRUE COPY OF THE APPLICATION DTD. 8/6/2015 SUBMITTED BEFORE THE IST RESPONDENT.

P9:-TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE IST RESPONDENT

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. Vinod Chandran, J

W.P.(C).No.19010 of 2015-A

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner is the owner of 14.14 Ares and 1.54 Ares of land, lying contiguously, comprised in Re-survey Nos.37/1 and 37/9 of Kalavoor Village, which is said to be 'garden land'. However, the land admeasuring 14.14 Ares comprised in Re-survey No.37/1 was shown in the revenue records as 'nilam'. The petitioner contends that even in the Draft Data Bank prepared under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act') the property is shown as converted land. Therefore, the petitioner filed an application before the 5th respondent to remove the said property from the draft Data Bank, evidenced at Exhibit P5. On the basis of the directions issued by this Court, evidenced at Exhibit P6, the 5th respondent considered the matter and reported the matter to the 2nd respondent, stating that the reclamation of the land in question took place prior to the coming into force of the Paddy

Land Act, a copy of which is produced at Exhibit P7. However, pending orders by the 2nd respondent, it is submitted, the decision in ***RDO v. Jalaja Dileep*** **[2015 (2) KHC 109 (SC)]** was rendered. Therefore, the petitioner filed an application, evidenced at Exhibit P8, before the District Collector in terms of Regulation No.6 of the Kerala Land Utilisation Order, 1967. Petitioner prays for early disposal of Exhibit P8.

2. If the land is converted prior to 2008 and the same is shown as converted land, the Local Level Monitoring Committee [for brevity "LLMC"] itself could remove the same from the Draft Data Bank, as has been held in **Adani Infrastructure & Developers Pvt. Ltd. v. State of Kerala [2015 (1) KLT 651]**. Hence, Exhibit P7 letter informing the RDO, the 2nd respondent, about the opinion of the LLMC is not proper. The LLMC itself could effect correction, going by the decision in ***Adani Infrastructure & Developers Pvt. Ltd.*** (*supra*).

3. In ***Jalaja Dileep*** (*supra*) the Hon'ble Supreme Court 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 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."

4. In view of the decision in ***Jalaja Dileep*** (*supra*), no rectification of the Basic Tax Register could be made. The petitioner has a contention that the land though included in the Data Bank prepared under the Paddy Land Act for the area, the Data Bank itself indicates it to have been converted prior to the Act of 2008. In such circumstance, on correction of the entry in the draft Data Bank, the petitioner could also take up the application at Exhibit P8, filed before the District Collector under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. 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 ***Puthan Purakkal Joseph v. Sub Collector*** **[2015 (3) KLT 182]**. 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]**.

Writ Petition is disposed of.

Sd/-
K.Vinod Chandran
Judge.

vku/-

Resurvey numbers *'37/1 and 37/9'* occurring in the 3rd and 5th lines of the1st paragraph of the judgment are corrected and substituted as *'Block No.2, Resurvey Nos.307/1 and 307/9 of Kalavoor Village,* as per order dated 13.08.2015 in I.A.No.11744/2015 in W.P.(C)No.19010/15.

Sd/-
Registrar (Judicial)

[true copy]