IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 20019 of 2015 (B)

PETITIONER :

MOLLY VARGHESE,
KATTUNILATHU PUTHENPURAYIL HOUSE,
NIRANAM CENTRAL P.O.,THIRUVALLA
REPRESENTED BY HER POWER OF ATTORNEY HOLDER
THOMAS VARGHESE, KATTUNILATHU PUTHENPURAYIL HOUSE,
NIRANAM CENTRAL P.O., THIRUVALLA.

BY ADVS.SRI.T.P.PRADEEP
SRI.P.K.SATHEES KUMAR

RESPONDENT(S):
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1. THE REVENUE DIVISIONAL OFFICER,
   THIRUVALLA-689 101.

2. THE AGRICULTURAL OFFICER/CONVENER OF THE LOCAL LEVEL MONITORING COMMITTEE,
   KRISHI BHAVAN, KADAPRA-689 621.

3. THE VILLAGE OFFICER,
   VILLAGE OFFICE, KADAPRA-689 621.

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 20019 of 2015 (B)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 : TRUE COPY OF THE SALE DEED DOCUMENT NO.392/1992 DT. 2-5-1992 REGISTERED IN SUB REGISTRAR OFFICE, KADAPRA.

EXT.P2 : TRUE COPY OF THE SALE DEED DOCUMENT NO.55/1993 DT. 27-1-1993 REGISTERED IN SUB REGISTRAR OFFICE, KADAPRA.

EXT.P3: TRUE COPY OF THE COMMUNICATION ISSUED BY THE 2ND RESPONDENT

EXT.P4 : TRUE COPY OF THE PHOTOGRAPHS OF THE LAND.

EXT.P5 : TRUE COPY OF THE REPRESENTATION DT. 9-1-15.

EXT.P6 : TRUE COPY OF THE MAHAZAR SUBMITTED BY THE 3RD RESPONDENT

EXT.P7 : TRUE COPY OF THE ORDER DT. 21-2-15 OF THE 1ST RESPONDENT

EXT.P8 : TRUE COPY OF THE REPRESENTATION DT. 4-5-15.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. VINOD CHANDRAN, J.

W.P.(C) No. 20019 of 2015 (B)

Dated this the 3rd day of July, 2015

<u>J U D G M E N T</u>

The petitioner has filed the above writ petition for correction of the description in the Basic Tax Register (BTR), of 35 Ares of land comprising in Resurvey No.236/2 of Kadapra Village and 14.4 Ares of land comprising in Resurvey No.236/5 of Kadapra Village.

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 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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> 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 such circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the land are not included in the Data Bank prepared under the Paddy Land Act for the area and has been converted prior to the Act of 2008. 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.P8. 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**.

Writ Petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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