

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C) .No. 23929 of 2012 (M)

PETITIONER(S) :-

VINOD KUMAR, AGED 40 YEARS  
S/O.DHAMODARAN NAIR, ARIMBRATHODY HOUSE  
ELANKUR P.O., ERANADU TALUK  
MALAPPURAM DISTRICT - 676 121  
REPRESENTED BY POWER OF ATTORNEY HOLDER SMITHA  
W/O.VINOD KUMAR, KOLANGARA THODIYIL, VELLAYOOR P.O.  
MALAPPURAM.

BY ADVS.SRI.P.R.SREEJITH  
SRI.M.PRAMODH KUMAR

RESPONDENT(S) :-

1. SUB COLLECTOR,  
OFFICE OF SUB COLLECTOR  
PERINTHALMANNA - 679 322.
2. THE TAHSILDAR,  
NILAMBUR TALUK, MALAPPURAM DISTRICT - 679 329.

BY GOVERNMENT PLEADER SRI.P.P.PADMALAYAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

jvt

WP(C).NO.23929 OF 2012

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY JENMOM ASSIGNMENT DEED No.2394/2010 OF VANDOOR SUB REGISTRY.

EXT.P2 :- TRUE COPY OF PETITIONER'S REPRESENTATION/REPLY DATED 25.2.2012.

EXT.P3 :- TRUE PHOTOGRAPHS OF THE EXT.P1 PROPERTY AND NEIGHBORHOOD EVIDENCING THE NATURE OF THE LAND.

EXT.P4 :- TRUE COPY OF THE 1ST RESPONDENT'S ORDER DATED 16.5.2012 REQUIRING RECONVERSION TO PADDY LAND AND CULTIVATE FOOD CROPS.

EXT.P5 :- TRUE COPY OF THE PETITIONER'S APPLICATION DATED 8.8.2012 BEFORE THE 2ND RESPONDENT FOR CONVERTING THE ENTRIES IN THE BASIC TAX REGISTER AS DRY LAND TO ENABLE SANCTION OF BUILDING PERMIT.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

A.M.SHAFFIQUE, J

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W.P(C). No. 23929 of 2012  
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Dated this the 13<sup>th</sup> day of November, 2015

JUDGMENT

Petitioner challenges Ext.P4 notice issued under section 7 of the Kerala Land Utilization Order, 1967, by which the petitioner was asked to cultivate paddy in the property. It is alleged that he has converted the land without permission from the Collector in terms with the Kerala Land Utilization Order and he was also informed that if he does not carry on paddy cultivation, the said land will be taken over by the Government and will be entrusted for paddy cultivation by auctioning the cultivation right. The petitioner submits that the property was lying as a garden land and when he started construction, the aforesaid notice has been issued. According to him, there was no paddy cultivation for a continuous period of three years in terms with the Kerala Land Utilization Order and therefore the order is liable to be set aside.

2. No counter affidavit has been filed in the matter. Learned Government Pleader submits that since the property is

described as paddy land in the Basic Tax Register and attempts were made by the petitioner to convert the land and fill up for constructing a building, the Revenue Divisional Officer has taken appropriate steps by invoking the Kerala Land Utilization Order, which the petitioner has to comply with.

3. Having regard to the aforesaid fact situation and since the petitioner has a contention that the property has been filled up long back and it is not suitable for paddy cultivation, petitioner is permitted to file necessary objection which has to be considered by the Revenue Divisional Officer and necessary orders are to be passed in that regard. In the meantime, the petitioner can also approach the Revenue Divisional Officer and seek for conversion if he requires to construct the building in the property and it is for the Revenue Divisional Officer to consider the said application in accordance with law. Under such circumstances, the writ petition is disposed of as under:

1. The petitioner is permitted to file necessary objection to Ext.P4 notice dated 16.5.2012.
2. The petitioner is also at liberty to file necessary application under clause 6 of Kerala land Utilization order, 1967.

3. The Revenue Divisional Officer shall consider the application under 6 as well as the objection filed to Ext.P4 notice and shall pass appropriate orders within a period of three months from the date of receipt of a copy of this judgment. Until such time, no action shall be taken to enforce Ext.P4.

Sd/-  
A.M.SHAFFIQUE,  
JUDGE

// TRUE COPY //

P.A. TO JUDGE

sou.16/11/15