

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

WP(C).No. 20347 of 2015 (P)

PETITIONER(S):

**T.T.JOSEPH, AGED 69 YEARS,
S/O.THOMAS, THOTTATHIL HOUSE,
KOTTAT P.O., WEST CHALAKUDY,
THRISSUR DISTRICT.**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENT(S):

**REVENUE DIVISIONAL OFFICER/SUB COLLECTOR,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
AYYANTHOLE, THRISSUR-680003.**

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE BASIC TAX RECEIPT DATED 16/9/14 ISSUED BY THE VILLAGE OFFICER**
- P2: PHOTOGRAPHS SHOWING THE PETITIONER'S PROPERTY**
- P3: COPY OF THE DRAFT DATA BANK PREPARED BY THE KRISHI BHAVAN AS REGARD CHALAKUDY**
- P4: COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE RESPONDENT DATED 2/1/15**
- P5: COPY OF THE ORDER DATED 13/5/15 OF THE RESPONDENT**
- P6: COPY OF THE DECISION REPORTED IN 2015 (3) KHC 19**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. VINOD CHANDRAN, J

W.P(C) No. 20347 of 2015

Dated this the 14th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the non-consideration of Ext.P4 application by the District Collector. Ext.P4 is an application filed before the respondent for correcting the classification of the petitioner's land as (Garden land) 'Paramba' from that indicated in the BTR as 'Nilam'. The petitioner has obtained the property as per the partition deed No.3912/1989 of Chalakudy SRO, covered by Ext.P1 basic tax receipt having an extent of 1 Acre 20 cents. The petitioner contends that the petitioner cannot use the property for other purposes since the land is classified as 'Nilam' in the BTR. This prompted the petitioner to make Ext.P4 application before the respondent.

2. I have heard the counsel appearing for the petitioner as also the learned Special Government Pleader (Revenue).

3. The learned Special Government Pleader (Revenue) contends that, the property is not included in the draft Data Bank for the area prepared under the Kerala Conservation of Paddy Land and Wet Land Act 2008 (for brevity, 'the Act') and hence the proper procedure for the petitioner would be to approach the authorities under the Kerala Land Utilisation Order, 1967 (for brevity 'the KLU Order') for utilisation of the converted lands for residential purposes as has been held in Revenue Divisional Officer v. Jalaja Dileep [2015 (1) KLT 984 SC]. It is also to be specifically noticed that the Hon'ble Supreme Court in the aforesaid decision has specifically held that a Government Order issued

under the KLU Order permits conversion and utilisation of land not in excess of 5 cents for residential purposes. But, however, the Hon'ble Supreme Court also held that there can be no correction as such effected to the BTR.

4. In such circumstance, Ext.P4 may not be a proper application, which could be considered by the respondent. However, the petitioner is granted liberty to approach the authorities under the KLU Order for permission to utilise the land for residential purposes. The mere fact that the conversion effected earlier shall not deter the authorities; since the KLU Order provides for permission for conversion as also utilisation. After such permission is obtained, it would also be permissible for the petitioner to approach the revenue authorities for fresh assessment of the land as per the conversion effected under the The Kerala Land Tax Act, 1961

going by the binding precedent in Kizhakkambalam Grama Panchayat v. Mariumma [2015(2) KLT 516].

The writ petition is disposed of with the above observations.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge