

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

WP(C).No. 21646 of 2014 (E)

PETITIONER :

**E.C.JACOB, AGED 67 YEARS,
S/O LATE .V.CHACKO, ELANJICKAL HOUSE,
P.O.OLASSA, KOTTAYAM DISTRICT, PIN-686015.**

**BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ**

RESPONDENTS :

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA
DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM, PIN-695001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM, PIN-686002.**
- 3. THE REVENUE DIVISIONAL OFFICER,
MINI CIVIL STATION, KOTTAYAM, PIN-6860001.**
- 4. THE ADDITIONALTAHSILDAR,
MINI CIVIL STATION, KOTTAYAM, PIN-686001.**
- 5. THE VILLAGE OFFICER,
AIMANAM VILLAGE, AIMANAM.P.O, KOTTAYAM DISTRICT
PIN-686014.**

R1 TO R5 BY SPL. GOVERNMENT PLEADER SRI. SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: COPY OF THE PURCHASE CERTIFICATE DATED 30.3.1987 BEARING NO.140/1987 OF LAND TRIBUNAL,KOTTAYAM ISSUED TO THE PETITIONER.
- EXT.P2: COPY OF THE SALE DEED DATED 28.12.2007 REGISTERED AS DOCUMENT NO.4244 OF 2007 OF SRO KOTTAYAM.
- EXT.P3: COPY OF THE BASIC TAX RECEIPT DATED 20.04.2012 ISSUED BY THE VILLAGE OFFICER,AIMANAM TO THE PETITIONER
- EXT.P4: COPY OF THE BASIJC TAX REGISTER PERTAINING TO THE PROPERTY COVERED BY EXT.P-1 MAINTAINED IN THE SURVEY OFFICE,KOTTAYAM.
- EXT.P5: COPY OF A.L.C.SUPPELEMENTARY FIELD REGISTER MAINTAINED IN THE CENTRAL SURVEY OFFICE,THIRUVANANTHAPURAM
- EXT.P6: COPY OF THE APPLICATION DATED 18.3.2013 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT.P7: COPY OF THE APPLICATION DATED 18.3.2013 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT
- EXT.P8: COPY OF THE BEARING NO.B-5255/13 DATED 30.11.2013 SUBMITTED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R.RAMACHANDRA MENON, J.

W.P.(C).No.21646 of 2014

Dated this the 4th day of March, 2015

JUDGMENT

The petitioner is the absolute owner of 15.19 cents of land in Re-Sy.Nos.247/9 and 247/19-2 of Aimanam Village. According to the petitioner the said property is a 'dry land' and not a 'paddy land' or 'wet land' as defined under Sections 2(xii) and 2(xviii) of the Act 28 of 2008.

2. A counter affidavit has been filed on behalf of the second respondent, paragraph 3 of which reads as follows:

It is submitted that the petitioner is the owner and in possession of 15.19 cents of land comprised in Resurvey No.247/9 and 247/19-2 in Block No.7 in Aymanam Village, Kottayam Taluk. The above said property is recorded as 'Nilam' in Basic Tax Register and Revenue Records. The above said property is recorded as 'Converted Land' in 2000 in the Draft Data Bank prepared as per Act 28 of 2008.

3. Heard both the sides in detail. As sworn in the counter affidavit filed by the second respondent, the property was recorded as a 'Converted Land' in the year 2000 in the Draft Data

W.P.(C).No.21646 of 2014

Bank Register prepared under Act 28 of 2008. As it stands so, the property was not lying as a 'paddy land' or 'wet land' as on the date of commencement of the Act; under which circumstances, provision of the said Act are not attracted in view of the law declared by this Court **Jafarkhan v. K.A. Kochumarakkar & Others (2012 (1) KLT 491)**. The nature of the property is also discernible from the other documents produced before this Court such as Exts.P1 patta, P4 BTR and P5 Supplementary Field Register maintained by the Central Survey Office, Trivandrum.

4. In the above circumstances, this Court does not require any second thought to hold that the property concerned herein is a 'converted land' and is not a 'paddy land' or 'wet land' envisaged under Act 28 of 2008. It is declared accordingly.

In the said circumstances, there will be a direction to the concerned respondent to cause necessary corrections in the BTR in respect of the property covered by Ext.P1/P2 in the light of the ruling rendered by a Division Bench of this Court in **Revenue**

W.P.(C).No.21646 of 2014

Divisional Officer Vs. Jalaja Dileep [2014 (1) KLT 161] which shall be done at the earliest, at any rate, within a period of one month from the date of receipt of a copy of this judgment. It is made clear that, this will be subject to the outcome of the verdict to be passed by the Apex Court in S.L.P (Civil) No.3172 of 2014; which has been preferred against the judgment of this Court in **Revenue Divisional Officer Vs. Jalaja Dileep** [2014 (1) KLT 161] as mentioned above.

sd/-
P.R.RAMACHANDRA MENON,
JUDGE.

rkc.