

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 21448 of 2015 (E)

PETITIONER:

**JOHNY C.J, CHENNAKKUNNEL HOUSE,
ARAKKUZHA P.O, MUVATTUPUZHA,
ERNAKULAM DISTRICT - 686 672.**

**BY ADVS.SRI.AVANEESH KOYIKKARA
SRI.LINDONS C.DAVIS**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM - 682 030.**
- 3. AGRICULTURAL OFFICER,
KRISHI BHAVAN, VALAKAM,
MEKKADAMPU P.O - 682 316.**

BY SENIOR GOVT. PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 21448 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHIBIT P1. TRUE COPY OF THE LETTER DATED 19.11.14 ISSUED BY THE
AGRICULTURE OFFICER, VALAKOM, ALONG WITH RELEVANT PAGES
OF DRAFT DATA BANK REGISTRER.**

**EXHIBIT P2. TRUE COPY OF THE KLU APPLICATION DATED 4.12.14 SUBMITTED BY
THE PETITIONER BEFORE THE DISTRICT COLLECTOR, ERNAKULAM.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. Vinod Chandran, J

W.P.(C).No.21448 of 2015-E

Dated this the 30th day of July, 2015

JUDGMENT

The petitioner is the owner of 05.06 Ares of land in Survey Nos.259/7 of Valakom Village of Ernakulam District. The petitioner contends that the property has been converted years back and there is a building also in the said property. 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, as is evidenced from Exhibit P1. The petitioner filed Exhibit P2 before the District Collector, for changed use of the property as per Clause 6 of the Kerala Land Utilization order. The petitioner prays for an early disposal of Exhibit P2, by the 2nd respondent.

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 Conservation 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 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 about 14 years back, i.e., much prior to the Act of 2008. The petitioner, as stated earlier, approached the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land, vide Ext.P2. 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.

vkul/-

[true copy]