IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 27TH DAY OF JULY 2015/5TH SRAVANA, 1937

WP(C).No. 21481 of 2015 (I)

PETITIONER :

MEENA DAVIS,W/O. DAVIS, AGED 54 YEARS,
VELLANIKKARAN HOUSE, IRINJALAKUDA P.O.,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT, PIN -680 121

BY ADVS.SRI.BINOY VASUDEVAN
SMT.P.G.BABITHA

RESPONDENT(S):
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1. THE REVENUE DIVISIONAL OFFICER,
   THRISSUR -680 001

2. THE TAHSILDAR,
   TALUK OFFICE, IRINJALAKUDA- 680 121

3. THE VILLAGE OFFICER,
   VILLAGE OFFICE, IRINJALAKUDA -680 121

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

sts

WP(C).No. 21481 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1	**TRUE COPY OF THE DOCUMENT NO.619/2007 OF S.R.O IRINJALAKUDA**
EXHIBIT P2	**TRUE COPY OF THE DOCUMENT NO.470/2007 OF S.R.O IRINJALAKUDA**
EXHIBIT P3	**TRUE COPY OF THE LAND TAX RECEIPT DATED 01-09-2014 ISSUED BY THE THIRD RESPONDENT**
EXHIBIT P4	**TRUE COPY OF THE CERTIFICATE DATED 11-05-2010 ISSUED BY THE 3RD RESPONDENT**
EXHIBIT P5	**TRUE COPY OF THE PROCEEDINGS OF THE 1ST RESPONDENT NO K.DIS.20048/2010/B2 DATED 24-08-2011**
EXHIBIT P6	**TRUE COPY OF THE RELEVANT PAGES OF THE DATA BANK IN RESPECT OF THE PETITIONER'S PROPERTIES**
EXHIBIT P7	**TRUE COPY OF THE REPRESENTATION DATED 25-04-2015 SUBMITTED BY THE PETITIONER SEEKING PERMISSION UNDER THE KERALA LAND UTILISATION ORDER.**
EXHIBIT P8	**TRUE COPY OF THE JUDGMENT DATED 30-06-2015 IN W.P(C) NO. 17204/2015**

RESPONDENT(S)' EXHIBITS: NIL
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/TRUE COPY/

P.A.TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) No. 21481 of 2015 (I)

Dated this the 27th day of July, 2015

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

The petitioner is aggrieved with the non-consideration of the application filed under Clause 6 of the Kerala Land Utilisation Order for the purpose of changed utilisation of the land of the petitioner, which is shown as 'nilam' in the Revenue Records and which is alleged to have been filled up long prior to the introduction of the Kerala Conservation of Paddy Land and Wet Land Act, 2008. The Revenue authorities have refused to consider the same, since the property has been described as 'nilam' in the Revenue Records, and it has been directed that the proper procedure is for the petitioner to approach the authorities under the Act of 2008. The petitioner contends that 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.

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 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 10 years back, i.e., 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.P7. 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 directing the 1st respondent (R.D.O.) to consider Ext.P7 representation, in accordance with law, as expeditiously as possible.

Sd/-
K.VINOD CHANDRAN,
JUDGE

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