

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.HARILAL**

**THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936**

**WP(C).NO. 22649 OF 2014 (E)**  
-----

**PETITIONER(S):**  
-----

**GEORGE, AGED 60 YEARS, S/O LATE OUSEPH,  
MANGALIVEEDU, NEERIKODE  
ALANGAD P.O, ERNAKULAM- 683511.**

**BY ADV. SRI.B.N.SHIV SHANKER**

**RESPONDENT(S)/ADDL.R6:**  
-----

- 1. REVENUE DIVISIONAL OFFICER,  
FORT KOCHI, ERNAKULAM, KOCHI 1**
- 2. VILLAGE OFFICER,  
VILLAGE OFFICE, ALANGAD, ERNAKULAM DISTRICT-683511.**
- 3. LAND REVENUE COMMISSIONER,  
LAND REVENUE DEPARTMENT, THIRUVANANTHAPURAM-695001.**
- 4. THE DISTRICT COLLECTOR,  
COLLECTORATE, KAKKANAD, ERNAKULAM-682030.**
- 5. THE SECRETARY,  
LAND REVENUE DEPARTMENT, TRIVANDRUM-695001.**

**\*ADDL.R6:**

**TAHSILDAR, PARAVUR TALUK OFFICE,  
NEAR COURT COMPLEX, N.PARAVUR,  
PIN CODE-683513.**

**(\*IMPLEADED AS ADDL.R6 AS PER ORDER DT.25/2/15 IN IA 2951/15)**

**BY SRI.P.KSOYUZ, SPL. GOVT. PLEADER (REVENUE)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-03-2015, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C).NO. 22649 OF 2014 (E)**  
-----

**APPENDIX**

**PETITIONER(S)' EXHIBITS:**  
-----

**EXHIBIT P1 SERIES: TRUE COPIES OF THE TITLE DEED NO.4154 DATED 23-11-1974 AND  
TITLE DEED NO 3074 DATED 07-08-1975 ALUVA S.R.O.**

**EXHIBIT P2: PHOTOGRAPHS OF THE PETITIONER'S PROPERTY**

**EXHIBIT P3: TRUE COPY OF THE THANDAPER REGISTER**

**EXHIBIT P4: TRUE COPY OF THE BASIC TAX REGISTER REGARDING THE PETITIONER'S  
PROPERTY**

**EXHIBIT P5: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER DATED  
10-03-2014**

**EXHIBIT P6: TRUE COPY OF THE 2ND RESPONDENT'S REPORT DATED 22-03-2014**

**RESPONDENT(S)' EXHIBITS: NIL**  
-----

**OKB**

**//TRUE COPY//**

**P.A. TO JUDGE**

K.HARILAL, J.

-----  
W.P(C). No.22649 of 2014  
-----

Dated this the 5<sup>th</sup> day of March, 2015

**JUDGMENT**

The petitioner is the owner in possession of a property covered by Ext.P1 series. In the Thandaper Register the said property is shown as Nilam. On 10/3/2014 the petitioner made Ext.P5 application before the 1<sup>st</sup> respondent for inclusion of the property as dry land in the data bank and the same was sent to the 2<sup>nd</sup> respondent for enquiry. The 2<sup>nd</sup> respondent reported the true facts and status that the respondents 3 and 4 can issue an order for correction in the Basic Tax Register (BTR). According to the petitioner, the prohibition under the Conservation of Paddy Land Act Wet Land Act, 2008 (for short, the 'Act') does not apply to the instant case as the same clearly prohibits conversion after the commencement of the Act and it does not apply to land which had already been converted prior to the appointed day, i.e. 12/8/2008. In short, the Act has prospective operation with effect from 12/8/2008 only. The grievance of the petitioner is that the inclusion of the petitioner's property as wet land in the BTR in

spite of the fact that more than 50 years back the land in question was filled up and converted to dry land and planted coconut trees, mahagony trees etc.

2. Heard the learned counsel for the petitioner and the learned Government Pleader. The learned counsel for the petitioner submits that though Ext.P6 clearly shows that the petitioner's land had been converted to purayidam more than 50 years ago, the respondents are not willing to correct the BTR in accordance with the present lie of the land. The learned counsel drew my attention to Ext.P2 report wherein the Village Officer has specifically stated that the petitioner's property had been converted 40 years back and now coconut trees and other trees having more than 30 years old are standing in the said property.

3. Going by the grievance projected in this writ petition it is seen that the issue involved herein is the common issue which was considered by this Court in **Shahanaz Shukkoor v. Chelannur Grama Panchayat [2009 (3) KLT 899]**, **Jafarkhan v. K.A. Kochumakkar and Others [2012 (1) KLT 491]**, **Pareed Salim v. State of Kerala and Others [2012 (4) KHC 79]** and **Aishabeevi v. Superintendent of Police [2014 (3) KLT 1078]**. According to the proposition laid down in the above decisions, the suitability of the paddy land is a factual issue, which requires to be decided on the basis of the ground reality existing and no inference can be drawn

on the basis of BTR alone, without considering the actual lie of the land. In the instant case, going by Ext.P6, the Village Officer has reported that the land in question was converted 40 years ago and coconut trees having more than 40 years age are standing in the said property. In short, the Village Officer has reported that at present, the property is lying as a garden land. From Ext.P6 no inference can be drawn that the said property was converted after the commencement of the Act. Needless to say, the Act has prospective operation only and no inference could be drawn otherwise.

4. In the above view of the matter, the petitioner is entitled to get the BTR corrected in accordance with the ground reality existing as regards the present lie of the land. Hence, the respondents are directed to make necessary corrections in the BTR in accordance with Ext.P6 report filed by the Village Officer, within a period of two months from today and it is made clear that this order will be subject to the result in S.L.P(C) No.3172 of 2014 of the Supreme Court.

This writ petition is disposed of accordingly.

Sd/–  
(K.HARILAL, JUDGE)

okb.