IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 22978 of 2015 (V)
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PETITIONER(S) :
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1. **G.NATARAJAN, AGED 65 YEARS,**
   S/O.GOPALAKRISHNA ACHARY, SREEPADAM HOUSE, KARITHALA,
   A.L.JACOB ROAD, KOCHI.

2. **PADMINI NATARAJAN, AGED 55 YEARS,**
   W/O.G.NATARAJAN, SREEPADAM HOUSE, KARITHALA,
   A.L.JACOB ROAD, KOCHI.

   BY ADV. SRI.J.ABHILASH

RESPONDENT(S) :
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1. **THE STATE OF KERALA,**
   REP. BY THE SECRETARY,
   THE GOVERNMENT BOARD OF REVENUE,
   GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM, PIN-695 001.

2. **THE REVENUE DIVISIONAL OFFICER,**
   FORT COCHIN, PIN-682 001.

3. **ALANGAD GRAMA PANCHAYAT,**
   REP. BY ITS SECRETARY,NEERICODE (P.O),
   ERNAKULAM DISTRICT, PIN-683 511.

   R1 & R2 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

   THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 22978 of 2015 (V)
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APPENDIX

PETITIONER(S)' EXHIBITS :
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EXHIBIT P1: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.11926/2012 OF THIS HON'BLE COURT.

EXHIBIT P2: TRUE COPY OF THE REPORT OF THE THAHASILDAR DATED 02-06-2012.

EXHIBIT P3: TRUE COPY OF THE REPORT OF THE AGRICULTURAL OFFICER DATED 29-12-2012.

EXHIBIT P4: TRUE COPY OF THE PROCEEDINGS BEFORE THE SECOND RESPONDENT.

EXHIBIT P5: TRUE COPY OF THE DATED 14-03-2013 BY THE SECOND RESPONDENT.

EXHIBIT P6: TRUE COPY OF THE INFORMATION OBTAINED FORM THE THIRD RESPONDENT DATED 11-07-2013.

EXHIBIT P7: TRUE COPY OF THE PHOTOGRAPHS OF THE PETITIONER'S PROPERTY.

RESPONDENT(S)' EXHIBITS :
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.
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W.P.(C) No.22978 of 2015 - V
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Dated this the 6th day of August, 2015

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

The petitioners are the owner of 9.89 cents of land in Survey No.88/1/2 of Alangad SRO, which is said to be 'garden land' but however described in the revenue records as 'nilam'. The petitioners contend that even in the Draft Data Bank prepared under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (for brevity 'the Act of 2008') 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 Act of 2008 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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> xxx xxx xxx
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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 and no interference caused to Ext.P5. The petitioners have a contention that the land though included in the Data Bank prepared under the Act of 2008 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 petitioners then has to approach the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. If the property is found to be utilised for a different purpose prior to the Act of 2008, 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 petitioners 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

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// true copy //

P.A to Judge.