

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(C).No. 23407 of 2014 (A)

PETITIONERS:

1. SAINABHA MUSTHAFA
W/O. MUSTHAFA, RAABI MANZIL, THOTTATHIL KOTTAPURATH
CHALACKAL, MARAMBILLY P.O., ALUVA EAST VILLAGE
ERNAKULAM DISTRICT, PIN-683107.
2. AHAMMED ASHRAF
S/O. MUSTHAFA, RAABI MANZIL, THOTTATHIL KOTTAPURATH
CHALACKAL, MARAMBILLY P.O., ALUVA EAST VILLAGE
ERNAKULAM DISTRICT, PIN-683107.

BY ADVS. SRI. N. MANOJ KUMAR
SMT. JAYASREE MANOJ

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
AGRICULTURE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.
2. THE DISTRICT COLLECTOR
ERNAKULAM, CIVIL STATION, KAKKANAD-682021.
3. THE TAHSILDAR
ALUVA TALUK, ERNAKULAM DISTRICT-680 641.
4. THE VILLAGE OFFICER
ALUVA EAST VILLAGE, ERNAKULAM DISTRICT-680641.
5. THE PRINCIPAL AGRICULTURAL OFFICER
CIVIL STATION, KAKKANAD, ERNAKULAM DISTRICT-682021.

ADDL.R6 & R7 IMPEADED:

ADDL.R6: THE AGRICULTURAL OFFICER AND CONVENOR,
LOCAL LEVEL MONITORING COMMITTEE,
KRISHIBHAVAN, KEEZHMADU – 683 101.

ADDL.R7: THE SECRETARY, KEEZHMADU GRAMA PANCHAYAT,
KEEZHMADU – 683 101.

(IMPEADED AS PER ORDER DT.9.7.15 IN I.A.NO.9001/15)

WP(C).No. 23407 of 2014 (A)

ADDL.R8 IMPEADED:

ADDL.R8: THE LOCAL LEVEL MONITORING COMMITTEE CONSTITUTED
UNDER SECTION 5 OF THE KERALA CONSERVATION OF PADDY LAND
AND WET LAND ACT, 2008 IN KEEZHMADU GRAMA PANCHAYAT,
REPRESENTED BY THE CONVENER, AGRICULTURAL OFFICER,
KRISHIBHAVAN, KEEZHMAD-683 101.

(IMPEADED AS PER ORDER DT.18.8.2015 IN I.A.No.9900/15)

BY GOVERNMENT PLEADER SRI MANOJ P.KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 23407 of 2014 (A)

PETITIONER(S)' EXTS:

EXT. P1 : COPY OF POSSESSION CERTIFICATE DATED 23.01.2013 ISSUED FROM THE VILLAGE OFFICER, ALUVA EAST IN RESPECT OF 5.65 ARES OF LAND OWNED BY THE 1ST PETITIONER.

EXT. P2 : COPY TAX RECEIPT NO.4354447 DATED 19.04.2014 ISSUED BY THE VILLAGE OFFICER, ALUVA EAST VILLAGE.

EXT. P3 : COPY OF THE POSSESSION CERTIFICATE DATED 23.01.2013 ISSUED FROM THE VILLAGE OFFICER ALUVA EAST IN RESPECT OF 4.05 ARES OF LAND OWNED BY THE 1ST AND 2ND PETITIONER.

EXT. P4 : COPY OF THE RECEIPT NO.4354451 DATED 19.04.2014 ISSUED BY THE VILLAGE OFFICER, ALUVA EAST VILLAGE.

EXT. P5 : COPY OF THE RELEVANT EXTRACT OF THE BASIC TAX REGISTER ISSUED BY THE VILLAGE OFFICER, ALUVA EAST DATED 23.01.2013 IN RESPECT OF 9.70 ARES OF THE LAND IN RESURVEY NO.225/17.

EXT. P6 : COPY OF THE NOTIFICATION NO.A2-2813/2012 DATED 19.04.2012 PUBLISHED BY THE KEEZHMAAD GRAMA PANCHAYAT ALONG WITH THE RELEVANT PAGE OF THE NOTIFICATION CONTAINING THE ENTRLY REGARDING THE LAND OF THE PETITIONERS.

EXT. P7 : COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY THE 1ST PETITIONER BEFORE THE DEPUTY TAHASILDAR, ALUVA.

EXT. P8 : COPY OF THE REPRESENTATION DATED NIL SUBMITTED BY BOTH THE PETITIONERS BEFORE THE DEPUTY TAHASILDAR, ALUVA.

EXT. P9 : COPY OF THE REPORT DATED 16.10.2012 OF THE 4TH RESPONDENT VILLAGE OFFICER.

EXT. P10: COPY OF THE REPRESENTATION DATED 13.03.2013 SUBMITTED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT.

EXT. P11: COPY OF THE LETTER DATED 10.06.2013 OF THE AGRICULTURAL OFFICER, KEEZHMADU TO THE 5TH RESPONDENT.

EXT. P12 : COPY OF THE REPLY DATED 19.09.2013 OF THE 5TH RESPONDENT.

EXT. P13 : COPY OF THE PHOTOGRAPH OF THE PETITIONERS PROPERTY.

EXT. P14 : COPY OF THE PHOTOGRAPH OF THE PETITIONERS PROPERTY.

EXT. P15: COPY OF JUDGMENT OF THIS COURT DT.18.3.15 IN WPC.29920/14.

EXT. P16: COPY OF LETTER DT.10.5.15 ADDRESSED BY THE ADDL.6TH RESPONDENT TO THE ADDL.7TH RESPONDENT.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TO JUDGE

ANIL K.NARENDRA, J

W.P.(C)No.23407 of 2014

DATED THIS THE 18th DAY OF AUGUST, 2015

JUDGMENT

The 1st petitioner is stated to be the owner in possession of 5.65 Ares of land in Block No.32 in Re-survey No.275/17-2 of Aluva East Village. She along with the 2nd petitioner are stated to be the owners in possession of another extent of 4.05 Ares of land in Block No.32, Re-survey No.225/17 of Aluva East village. They have approached this Court in this Writ petition seeking an order directing the respondents to correct the entry in Exts.P5 and P6 records regarding the nature of land as 'dry land' instead of 'Nilam'. They have also sought for a declaration that their property is dry land and not wet land and a writ of mandamus commanding the respondents to effect correction in the Basic Tax Register, data bank and in all other records in terms of the above declaration.

2. On 9.7.2015, this Court has directed the additional 6th respondent, namely, the Agricultural officer, who is the Convenor of the Local Level Monitoring Committee to inspect the property in question along with the Village officer and to file a report as to the

exact nature of the property before this Court. It was also made clear that the inspection shall be conducted with notice to the petitioners and in their presence.

3. Pursuant to the above order passed by this Court, the 6th respondent has conducted an inspection and submitted a report dated 10.8.2015. Para.3 of the report reads thus:

“ On inspection, it is found that there are 40 rubber trees aged about 20 years, one coconut tree and one jackfruit tree are standing in the property. On inspection and enquiry, it is found that the above said property is neither a paddy land nor a wetland as defined in Act 28 of 2008. The above said property was not suitable for paddy cultivation at the time of commencement of Act 28 of 2008. It is also found that the entry of the above said property in the Data Bank as 'Nilam' is a mistake.”

4. From the report of the 6th respondent it can be seen that the property of the petitioners is wrongly included in the data bank register as 'Nilam' and the same is situated as a converted land with lot of improvements including age old trees, etc. Such factual position is considered by the 1st respondent in his report as aforesaid.

In such circumstances, there will be a direction to the 1st

respondent to take necessary steps to delete entry regarding the petitioners' properties having an extent of 5.65 Ares in Re-survey No.225/17-2 and 4.05 Ares in Re-survey No.225/17 of Aluva East Village from the data bank register. Appropriate steps in this regard shall be taken by the competent authority at the earliest, at any rate within a period of three months from the date of receipt of a copy of this judgment. The petitioner shall produce a copy of this judgment along with a copy of the Writ Petition before the 5th respondent for compliance.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn

The word "1st respondent" occurring in the last sentence of the 4th paragraph and in the first line of the last paragraph and the word "5th respondent" occurring in the last line of the last paragraph of the judgment dated 18.8.2015 in W.P.(C) No.23407/2014 are corrected as "6th respondent", vide order dated 9.10.2015 in I.A.No.13982/2015 in W.P.(C) No.23407/2014.

Sd/-
Registrar (Judicial)