

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 23524 of 2014 (M)

PETITIONERS :

- 1. K. K. MUHAMMED, "NEST",
K.S.H.B.COLONY, PERINTALMANNA,
MALAPPURAM DISTRICT.**
- 2. HASHEEN MOHAMMED, "NEST",
K.S.H.B.COLONY, PERINTALMANNA,
MALAPPURAM DISTRICT.**

BY ADV. SRI.V.RAJENDRAN

RESPONDENT :

**THE TAHSILDAR, PERINTHALMANNA
PERINTALMANNA P.O.- 679 322, MALAPPURAM DISTRICT.**

BY GOVERNMENT PLEADER SRI. M. MUHAMMED SHAFI.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE CERTIFICATE DATED 27-07-1989 ISSUED BY THE RUBBER BOARD TO THE 1ST PETITIONER.
- EXT.P2(A): TRUE COPY OF THE LAND TAX RECEIPT DATED 26-05-2014 OF THE 1ST PETITIONER
- EXT.P2(B): TRUE COPY OF THE LAND TAX RECEIPT DATED 26-05-2014 OF THE 2ND PETITIONER
- EXT.P3: TRUE EXTRACT OF THE DATA BANK ENTRIES ISSUED BY THE VILLAGE OFFICER VETTATHUR.
- EXT.P4: TRUE COPY OF PHOTOGRAPH OF THE PETITIONERS LAND.
- EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 01-07-2014 OF THE PETITIONERS TO THE RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.23524 OF 2014
.....

Dated this the 26th February, 2015

J U D G M E N T

The grievance of the petitioners is mainly with regard to the refusal on the part of the revenue authorities in effecting necessary changes in the BTR as to the physical nature of the property. The first petitioner is the owner of 44 cents of land in Sy.No.195/12 of Vettathur Village and the second petitioner is the owner of the property having an extent of 1.85 acres of land comprised in various survey number of Vettathur village; which are actually garden lands and not paddy land or wet land as defined under section 2(xii) OR 2 (xviii) of the Kerala Conservation of paddy land and Wet Land Act, 2008. It is also stated that the said properties are planted with rubber and the factual position is disclosed from Ext.P1 certificate issued by the Rubber Board Exts.P2(a) and P2(b) tax receipts and Ext.P3 copy of the Data Bank Register, which show that the above properties are not included as paddy land or wet land, under the aforesaid Act. In the remarks column, existence of rubber trees has been clearly shown. Ext.P4 is a photograph in respect of the properties concerned.

2. A counter affidavit has been filed on behalf of the respondent/Tahsildar; paragraph '2' of which reads as follows:

"2. It is respectfully submitted that the classification of the above properties are shown as Nancha I in Village Records. This respondent has no authority for granting permission for the conversion and correction and reclassification of land till the date under the Kerala Conservation of Paddy Land and Wet Land Act 2008. The Pradesika Nireekshana Samithi headed by the Agricultural Officer was the Authority to receive application for the conversion of land and this respondent has no power to change the reclassification of land in Basic Tax Register. The Data Bank Was prepared after conducting detailed enquiries. As per land Revenue Commissioner's proceedings No.LR (A6) 17715/4(2) dated 20.05.2014, it is clear that for classification of Village Records, Government have to make necessary amendment and only then entries in Basic Tax Register can be changed."

3. Heard the learned Government Pleader as well.

4. After hearing both the sides, this Court finds that the materials produced before this Court clearly reveal that the properties were never lying as paddy land or wet land as on the

date of commencement of the Act 28 of 2008. The physical nature of the property shows that it is a garden land planted with rubber. As such, the petitioners are having every right to get the entries corrected in the Basic Tax Register in terms of the decision in **RDO vs. Jalaja Dileep [2014(1) KLT 161]**.

5. In the said circumstance, a declaration is given in favour of the petitioners to the above effect and the respondent/Tahsildar is directed to correct the entries in BTR in terms of the observation as above, which shall be done at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment. However, it is made clear that, this will be subject to the result of the verdict to be passed by the Apex Court, where the issue is pending by way of SLP (3172 of 2014) which arises from **2014 (1) KLT 161** (cited supra).

The writ petition stands disposed of. Petitioners shall produce a copy of the judgment along with a copy of the writ petition before the respondent/Tahsildar for further steps.

P.R.RAMACHANDRA MENON
JUDGE