

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 23715 of 2014 (L)

PETITIONER:

**EDACHOLI MANATT SHUBHANGHI,
AGED 56 YEARS, D/O.PARVATHY,
MUKUND NIVAS, PONNIYAM WEST POST,
THALASSERY, KANNUR DISTRICT.**

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT(S):

- 1. THE SUB INSPECTOR,
THALASSERY, KANNUR DISTRICT - 670 101.**
- 2. THE VILLAGE OFFICER,
KATHIRUR VILLAGE, THALASSERY,
KANNUR DISTRICT - 670 101.**
- 3. THE AGRICULTURAL OFFICER,
KATHIRUR, THALASSERY, KANNUR DISTRICT - 670 101.**

BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 23715 of 2014

Dated this the 12th day of March, 2015

J U D G M E N T

The petitioner is the owner of the land having an extent of 32 cents comprised in Re-survey No.95/1B1A of Kathirur Village, which according to the petitioner is a 'garden land'. Though the same stands described as 'nancha' in the revenue records. The petitioner is enjoying the property also satisfying the tax. Ext.P1 is the 'possession certificate' issued by the concerned Village Officer. So as to enable the petitioner to put up a residential building, the petitioner submitted Ext.P2 application before the 1st respondent for sanction, pointing out that the property is not a paddy land, the same has not been included as paddy land in the Data Bank Register and further that no cultivation is being effected in the said property for the past more than 40 years. Photographs of the property are also produced along with Ext.P2. Pursuant to the application, it was sought to be enquired into as per Ext.P3 and P4 proceedings dated 06.11.2013 issued by the 1st respondent. As per the contents of paragraph 4 of the counter affidavit filed by the 1st respondent, it is seen that pursuant to Exts.P3 and P4 the Village Officer conducted an inspection of the property and found that the property was not included as paddy land in the Data Bank

Register. It was concluded that no cultivation was being done in the land for the past 25 years. This being the position, the property cannot be termed as a paddy land or wet land as defined under Section 2(xii) or 2(xviii) of the Act 28/2008.

2. Under such circumstances, it is open for the petitioner to have appropriate relief in terms of the provisions of the KLU as made clear by the Apex Court vide decision reported in **Revenue Divisional Officer V. Jalaja Dileep [2015 (1) KLT 984 (SC)]**. Since Ext.P2 application preferred by the petitioner before the 1st respondent stands already rejected as per Ext.P7, this Court finds that the matter required to be reconsidered. Accordingly, Ext.P7 is set aside and the 1st respondent is directed to reconsider the matter, as above, after hearing, at the earliest, at any rate, within 'two months from the date of receipt of a copy of this judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.