

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

WP(C).No. 23503 of 2015 (K)

PETITIONER(S):

**JOSEPH THOMAS, AGED 36 YEARS,
S/O.V.P.THOMAS, VENATTU HOUSE, THEKKEMURI,
EDATHUA P.O., ALAPPUZHA DISTRICT, HOLDER V.P.THOMAS,
S/O.CHERIYAN, VENATTU HOUSE, THEKKEMURI,
EDATHUA P.O, ALAPPUZHA DISTRICT-689 573.**

**BY ADVS.SRI.S.SANAL KUMAR
SRI.M.T.SURESHKUMAR
SMT.T.J.SEEMA
SMT.BHAVANA VELAYUDHAN
SMT.SMITHA PHILIPOSE**

RESPONDENT(S):

- 1. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN,
EDATHUA & CONVENER OF THE LOCAL LEVEL
MONITORING COMMITTEE OF EDATHUA VILLAGE,
OFFICE OF THE AGRICULTURAL OFFICER, EDATHUA-689 573,
ALAPPUZHA DISTRICT.**
- 2. THE REVENUE DIVISIONAL OFFICER,
& CHAIRMAN OF THE DISTRICT LEVEL AUTHORIZED COMMITTEE,
ALAPPUZHA-688 001.**
- 3. THE VILLAGE OFFICER,
EDATHUA VILLAGE, ALAPPUZHA DISTRICT-698 573.**

BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE SETTLEMENT DEED DATED 17.12.2012.
- P2: TRUE COPY OF THE POWER OF ATTORNEY ISSUED BY THE PETITIONER TO HIS FATHER,DATED 23.07.2015.
- P3: TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT, DATED NIL.
- P4: TRUE COPY OF THE CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 18.02.2014.
- P5: TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 25.5.2013.
- P6: TRUE COPY OF THE LOCATION SKETCH ISSUED BY THE 3RD RESPONDENT.
- P7: TRUE COPY OF THE REPORT DATED 22.04.2013 OF THE KUZHIPPADAVU PADASEKHARA NELLULPADAKA SAMITHI.
- P8: TRUE COPY OF THE AFFIDAVIT OF THE PETITIONER DATED 31.01.2014.
- P9: TRUE COPY OF THE CERTIFICATE ISSUED BY THE EDATHUA GRAMA PANCHAYATH DATED 31.10.2013.
- P10: TRUE COPY OF THE MINUTES OF THE MEETINGS OF THE LOCAL LEVEL MONITORING COMMITTEE,DATED 10.11.2014.
- P11: TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE POWER OF ATTORNEY HOLDER BEFORE THE 1ST RESPONDENT,DATED 22.11.2014.
- P12: TRUE COPY OF THE APPEAL FILED BY THE PETITIONER BEFORE THE DISTRICT COLLECTOR,DATED JANUARY, 2015.
- P13; TRUE COPY OF THE PROCEEDINGS NO.C10.3862/15 DATED 07.03.2015 OF THE DISTRICT COLLECTOR.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.23503 of 2015

Dated this the 17th day of September, 2015

JUDGMENT

The petitioner approached the Local Level Monitoring Committee for the purpose of reclamation of ten cents of paddy land for putting up a residential building for him and his family. The petitioner's family consists of him and his wife and children.

2. The Local Level Monitoring Committee considered the petitioner's application and not recommended for the reason that the petitioner's father owns a suitable land for the purpose of constructing the residential building.

3. It is appropriate to refer Section 9(8) of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 for the purpose of considering this issue, which reads as follows:-

(8) Notwithstanding anything contained in sub-section (1), no application shall be considered by the District Level Authorised Committee, unless the Local Level Monitoring Committee has recommended that:-

- i. such reclamation shall not adversely affect the ecological condition and the cultivation

- in the adjoining paddy land;
- ii. the owner of the paddy land or his family do not own a suitable land for this purpose in that District;
- iii. the building to be constructed is for his own purpose; and
- iv. such paddy land is not situated surrounded by other paddy lands.

4. The family as referred under Section 9(8)(ii) has to be understood in context when the petitioner seeks construction of a residential building for the purpose of family consists of him and his wife and children. The family has to be understood in that normative sense and cannot be stretched to an extent to include his father or grandfather etc. It is the family that has to be understood with reference to the need projected by the applicant for the purpose of construction. When the petitioner wants to set up residential building for him and his wife and children, that family has to be understood in that sense and not in larger sense that could be meant by practices or customs or under law.

Therefore, this Court is of the view, the rejection of petitioner's application on the ground that his father owns land is unsustainable. The petitioner has no case that he wants to put up a residential building for him along with his parents. Therefore, the decision of the Local Level Monitoring Committee is set aside. The Local Level Monitoring Committee is directed to reconsider the matter afresh in accordance with the procedure of the law and make appropriate remarks to the District Level Authorised Committee. Needful shall be done within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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