IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 23955 of 2015 (T)

PETITIONER(S):

M/S.SPRING INFRADEV LIMITED,
TC-24/1969, 'NAKSHATRA', VAZHUTHACAUD P.O.,
THYCAUD, THIRUVANANTHAPURAM,
REPRESENTED BY ITS PRESIDENT, M.NAJEEB.

BY ADV. SRI.M.SREEKUMAR

RESPONDENT(S):
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1. **STATE OF KERALA,**
   REPRESENTED BY SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM-695 001.

2. **REVENUE DIVISIONAL OFFICER,**
   THIRUVANANTHAPURAM-695 001.

BY GOVERNMENT PLEADER SMT. C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 23955 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE AUTHORIZATION DATED 5-8-2015.

EXHIBIT P2- TRUE COPY OF THE BASIC TAX REGISTER WITH RESPECT TO VARIOUS SUB DIVISIONS OF SY.NO. 112 OF PANGAPPARA VILLAGE.

EXHIBIT P3- TRUE COPY OF THE RELEVANT PORTION OF THE DATA BANK OF PANGAPPARA VILLAGE.

EXHIBIT P4- TRUE COPY OF CERTIFICATE NO. SKM 7/2015 DATED 20-4-15 ISSUED BY THE AGRICULTURAL OFFICE, SREEKARIYAM.

EXHIBIT P5- TRUE COPY OF REPORT NO.C1-48025/15 DATED 27-7-2015 OF THE ADDITIONAL TAHSILDAR, THIRUVANANTHAPURAM.

EXHIBIT P6- TRUE COPY OF THE APPLICATION DATED 2-7-2015 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

K. VINOD CHANDRAN, J.

W.P.(C) No. 23955 of 2015 (T)

Dated this the 12th day of August, 2015

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

The petitioner Company had purchased 4.82 Acres of land in Survey Nos.111/7, 112/1, 112/1-1, 112/7, 112/8, 112/9, 112/10, 112/10/1, 112/11, 112/12-1, 112/13, 112/14, 112/15, 112/16, 112/18, 112/23, 112/24, 112/24-1, 112/25, 112/28, 116/5/1, 116/6, 116/6/1, 116/14, 116/14/1 and 116/14-3 of Pangappara Village which is said to be 'garden land' but however described in the revenue records as 'nilam'. The petitioner contends that even in the Draft Data Bank prepared under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act') 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 Paddy Land Act 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.

xxx xxx xxx

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. The petitioner has a contention that the land though included in the Data Bank prepared under the Paddy Land Act 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 petitioner then has to approach the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. Such an application is filed at Ext.P6. If the property is found to be utilised for a different purpose prior to the Paddy Land Act, 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 petitioner Company 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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