

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 24279 of 2015 (H)

PETITIONER :

**SAINULABDEEN,
SHEEJA MANZIL, MUDRAKKAL, NELLANADU VILLAGE,
VENJARAMMOODU, NEDUMANGADU TALUK,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH
SMT.MEERA KISHORE**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.PIN-695 001**
- 2. THE REVENUE DIVISIONAL OFFICER ,
THIRUVANANTHAPURAM. PIN-695 001**
- 3. NELLANADU GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE NELLANADU GRAMA PANCHAYAT,
VENJARAMMOODU P.O., THIRUVANANTHAPURAM-695 607.**
- 4. THE SECRETARY,
NELLANADU GRAMA PANCHAYAT,
OFFICE OF THE NELLANADU GRAMA PANCHAYAT,
VENJARAMMOODU P.O., THIRUVANANTHAPURAM-695 607.**
- 5. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, NELLANADU, VENJARAMMOODU P.O.,
THIRUVANANTHAPURAM-695 607.**

BY GOVERNMENT PLEADER SMT. K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE TAX RECEIPT DTD. 11.11.2014 PERTAINING TO THE PETITIONER'S PROPERTY.
- P2 : COPY OF THE BUILDING PERMIT DTD. 21.5.2015 ISSUED BY THE 4TH RESPONDENT.
- P3 : COPY OF THE REPORT DTD. 7.6.2015 SUBMITTED BY THE 4TH RESPONDENT BEFORE THE 2ND RESPONDENT.
- P4 : COPY OF THE NOTICE NO.A4-2705/15 DTD. 23.6.2015 OF THE 4TH RESPONDENT.
- P5 : COPY OF THE REPRESENTATION DTD. 3.7.2011 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P6 : COPY OF THE NOTICE NO.A4-2705/15 DTD. 10.7.2015 OF THE 4TH RESPONDENT.
- P7 : COPY OF THE REPRESENTATION DTD. 16.7.2015 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P8 : COPY OF THE PROCEEDINGS NO.A4-2705/15 DTD. 20.7.2015 OF THE 4TH RESPONDENT.
- P9 : COPY OF THE REPRESENTATION DTD. 27.7.2015 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT AND WHICH HAS BEEN NUMBERED AS I-I/14918/15.
- P9(A) : COPY OF THE ACKNOWLEDGMENT RECEIPT ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

A.V.RAMAKRISHNA PILLAI, J.

W.P.(C)No.24279 of 2015

Dated this the 11th day of August, 2015.

J U D G M E N T

The petitioner is seeking a direction to consider Ext.P9 in the light of 2015(3)KHC 727.

2. The petitioner has been issued with Ext.P2 building permit for the construction of a commercial-cum-residential building by the 4th respondent in his property comprised in Resurvey Nos.281/9-4 and 281/9-1 of Nellanadu village. The petitioner had commenced the construction as well. While so, the building permit was revoked by the panchayat on the ground that the petitioner's property is shown as 'nilam' in the revenue records and according to the Judgment of the Honourable Supreme Court, no construction can be permitted. The property of the petitioner is lying as dry land for the past several decades and the building permit was issued after verifying the ground reality regarding the nature of the property ; it is submitted.

3. Arguments have been heard.

4. It is pointed out by the learned counsel for the petitioner that, this Court in Beena Johnson Vs. R.D.O., Idukki and another reported in 2015(3)KHC 727 has held that the authorities under the Kerala Land Utilisation Order can deal with such properties not being paddy land converted under the Act of 2008 and if they are found to be already converted, could also permit different utilisation of the land from the description as indicated in the Basic Tax Register. It was also held that after getting an order under the Kerala Land Utilisation Order for conversion or for a different utilisation, the land owner could approach Appropriate Authority under the Land Tax Act for the reassessment of land in accordance with the changed utilisation or conversion. Accordingly, on 27.7.2015 the petitioner submitted Ext.P9 representation before the 2nd respondent seeking to permit him to utilise the property for any other purpose and to recall Ext.P8 order passed by the

4th respondent and Ext.P9 is pending consideration.

Considering the nature of submissions made and the relief sought for, this writ petition is disposed of directing the 2nd respondent to consider Ext.P9 representation in the light of the aforesaid decision, after affording an opportunity of being heard, within a period of one month of the date of receipt of copy of this judgment. Till final outcome of Ext.P9, the operation of Ext.P8 shall be kept in abeyance.

Sd/-
A.V.RAMAKRISHNA PILLAI,
Judge.

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//True copy//

P.A. to Judge