IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

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

WP(C).No. 24333 of 2015 (N)

PETITIONER(S):

FRANCIS @ WILSON, AGED 39 YEARS,
S/O.PAILY, PEREPARAMBIL,
THEKKUMBHAGOM, TRIPUNITHURA - 682 301.

BY ADVS.SRI.DINESH R.SHENOY,
SMT.K.K.JYOTHILAKSHMY,
SRI.SANIL JOSE.

RESPONDENT(S):
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1. DISTRICT COLLECTOR,
   CIVIL STATION, KAKKANAD, COCHIN - 682 030.

2. THE REVENUE DIVISIONAL OFFICER,
   O/O. REVENUE DIVISIONAL OFFICE, KOCHI - 682 001.

BY GOVT. PLEADER SMT.C.K. SHERIN.

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

rs.

WP(C).No. 24333 of 2015 (N)

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P-1: TRUE PHOTOCOPY OF SALE DEED NO.1308 OF 2015, THRIPUNITHURA SRO DATED 26.05.2015.

EXT.P-2: TRUE PHOTOCOPY OF SALE DEED NO.1394 OF 2015, TRIPUNITHURA SRO DATED 03.06.2015.

EXT.P-3: TRUE PHOTOCOPY OF PAGES 12 AND 23 OF THE LAND IDENTIFICATION DETAIL IN THE DATA BANK OF PADDY LAND AND WETLAND OF TRIPUNITHURA MUNICIPALITY, THEKKUMBHAGAM VILLAGE.

EXT.P-4: TRUE SKETCH OF EXT.P1 PROPERTY.

EXT.P-5: TRUE PHOTOCOPY OF TAX RECEIPT NO.4632773.

EXT.P-6: TRUE PHOTOCOPY OF JUDGEMENT DATED 27.07.2012 IN WP(C).NO. 17634/2012, HIGH COURT OF KERALA.

EXT.P-7: TRUE PHOTOCOPY OF REPRESENTATION DATED 03.08.2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J.
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W.P.(C) No.24333 of 2015 - N
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Dated this the 11th day of August, 2015

J U D G M E N T

The petitioner is the owner of 8.10 Ares of land in Sy.No.171/6 of Thekkumbhagam Village, Tripunithura, which is said to be 'garden land' but however described in the revenue records as 'converted land'. 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.
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> xxx xxx xxx
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> 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.P7. 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 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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// true copy //

P.A to Judge.