IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

WP(C).No.28393 of 2014 (Y)

PETITIONER:

SURESH BABU,AGED 47 YEARS,
S/O.PADMANABHAN,VYPPIN KATTIL HOUSE,
PORATHUSSERRY VILLAGE,
KARUVANOOR P.O.,THRISSUR DISTRICT.

BY ADV.SRI.RAJESH CHAKYAT

RESPONDENT'S:
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1. THE DISTRICT COLLECTOR,THRISSUR,
COLLECTORATE,CIVIL STATION,
AYYANTHOLE,THRISSUR-680 003.

2. THE SUB DIVISIONAL MAGISTRATE,
THRISSUR,COLLECTORATE,CIVIL STATION,
AYYANTHOLE,THRISSUR-680 003.

3. THE TAHSILDAR,MUKUNDAPURAM,
MUKUNDAPURAM TALUK OFFICE,CIVIL STATION,
IRINJALAKUDA,THRISSUR-680 121.

4. THE VILLAGE OFFICER,PORATHUSSERRY VILLAGE,
THRISSUR DISTRICT.

R1-R4 BY SPECIAL GOVT. PLEADER SRI.P.K.SOYUS.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

pk

WP(C).No.28393 of 2014 (Y)

APPENDIX

PETITIONER'S EXHIBITS:

P1 : **A TRUE COPY OF THE PURCHASE DEED DTD.24.8.2013.**

P2 : **A TRUE COPY OF THE POSSESSION CERTIFICATE DTD.17.1.2014 ISSUED BY THE 4TH RESPONDENT.**

P3 : **A TRUE COPY OF ONE OF THE BUILDING TAX RECEIPT OF THE ABOVE OLD HOUSE DTD.7.6.2005.**

P4 : **A TRUE COPY OF THE SAID APPLICATION AND ITS RECEIPTS DTD.7.10.2014.**

RESPONDENT'S EXHIBITS: **NIL**

//TRUE COPY//

P.S. TO JUDGE

pk

K. VINOD CHANDRAN, J.
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W.P.(C) No.28393 of 2014 - Y
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Dated this the 29th day of May, 2015

J U D G M E N T

The petitioner is aggrieved with the non-consideration of Ext.P4 application by the District Collector. Ext.P4 is an application filed before the District Collector for correcting the classification of the petitioner's land as (Garden land) 'Paramba' from that indicated in the BTR as 'Nilam'. The petitioner admittedly purchased Ext.P1 property having an extent of 5 cents with a building thereon. The building being in a dilapidated stage, the petitioner had demolished the building and also constructed a small residential house thereon. When the petitioner applied before the Local Self Government Institution for carrying on a tea-shop in the said land, the same was not considered on the ground that the land was classified as 'Nilam' in the BTR. This prompted the petitioner to make Ext.P4 application before the District Collector.

2. I have heard the counsel appearing for the petitioner as also the learned Special Government Pleader (Revenue).

3. The learned Special Government Pleader (Revenue) on the basis of the counter affidavit filed would contend that, the property is not included in the draft Data Bank for the area prepared under the Kerala Conservation of Paddy Land and Wet Land Act 2008 (for brevity, 'the Act') and hence the proper procedure for the petitioner would be to approach the authorities under the Kerala Land Utilisation Order, 1967 (for brevity 'the KLU Order') for utilisation of the converted lands for residential purposes as has been held in **Revenue Divisional Officer** v. **Jalaja Dileep [2015 (1) KLT 984 SC]**. It is also to be

specifically noticed that the Hon'ble Supreme Court in the aforesaid decision has specifically held that a Government Order issued under the KLU Order permits conversion and utilisation of land not in excess of 5 cents for residential purposes. But, however, the Hon'ble Supreme Court also held that there can be no correction as such effected to the BTR.

4. In such circumstance, Ext.P4 may not be a proper application, which could be considered by the District Collector. However, the petitioner is granted liberty to approach the authorities under the KLU Order for permission to utilise the land for residential purposes. The mere fact that the conversion was effected earlier shall not deter the authorities; since the KLU Order provides for permission for conversion as also utilisation. After such permission is obtained, it would also be permissible for the petitioner to approach the revenue authorities for fresh assessment of the land as per the conversion effected under the

The Kerala Land Tax Act, 1961 going by the binding precedent in **Kizhakkambalam Grama Panchayat** v. **Mariumma [2015(2) KLT 516**].

The writ petition is disposed of with the above observations.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB

// true copy //

P.A to Judge.