

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

WP(C).No. 29406 of 2014 (A)

PETITIONER(S):

**SHINY, AGED 39,
W/O R.P HAKSAR, PUTHUMANAKAL HOUSE,
AYYANTHOLE,THRISSUR - 3.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, AYYANTHOLE, THRISSUR - 680 001.**
- 3. THE TAHSILDAR,
TALUK OFFICE, THRISSUR - 680 001.**
- 4. THE VILLAGE OFFICER,
AYYANTHOLE VILLAGE OFFICE, THRISSUR - 680 001.**

BY SENIOR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI M.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 29406 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: A TRUE COPY OF THE DOCUMENT OF THE TITLE BEARING NO 7307 OF
06 DATED 20-12-2006 OF THE AYYANTHOLE S.R.O.**

**EXHIBIT P2: A TRUE COPY OF THE BASIC TAX RECEIPT ISSUED TO THE PETITIONER
DATED 13-05-2014.**

**EXHIBIT P3: A TRUE COPY OF THE CERTIFICATE ISSUED BY THE FOURTH
RESPONDENT DATED 26-05-2014.**

EXHIBIT P4: A TRUE COPY OF THE RELEVANT ENTRY IN THE DATA BANK DATED NIL.

**EXHIBIT P5: A TRUE COPY OF THE REQUEST OF THE PETITIONER BEFORE THE
THIRD RESPONDENT DATED 18-09-2014.**

**EXHIBIT P6: TRUE COPY OF THE RECEIPT ISSUED BY THE THIRD RESPONDENT
DATED 18-09-2014.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Ms v/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 29406 of 2014

Dated this the 27th day of February, 2015

J U D G M E N T

The grievance of the petitioner is mainly with regard to the refusal on the part of the revenue authority to effect necessary changes in the BTR as to the physical nature of the property. The case of the petitioner is that, property is actually garden land and not paddy land or wet land as defined under section 2(xii) or 2(xviii) of the Kerala Conservation of paddy land and wet Land Act, 2008. It is also stated that the mutation was effected and the tax was being remitted by the petitioner as evident from Ext.P2. Ext.P3 is the certificate issued by the Village Officer, which describes that the property is 'nilam'.

2. A counter affidavit has been filed on behalf of the 3rd respondent/Tahsildar; paragraph '3' of which reads as follows:

"3. Petitioner is the owner and in possession of 0.0151, 0.0377, 0.0324 and 0.0354 Hectares of land comprised in Sy.Nos.1138/5, 1140/2, and 1140/4 respectively of Ayyanthole Village. The above said land is recorded as 'Nilam' in the Basic Tax Register and revenue records. In the Draft Data Bank, the said property is recorded as reclaimed land.

3. After hearing both the sides, this Court finds that the materials produced before this court clearly reveal that the property was never lying as paddy land or wet land as on the date of commencement of the Act 28 of 2008. The physical nature of the property shows that it is a garden land. As such the petitioner is having every right to get the entries corrected in the Basic Tax Register in terms of the decision in **RDO vs. Jalaja Dileep** [2014(1) KLT 161].

4. In the said circumstance, a declaration is given in favour of the petitioner and the 3rd respondent/Tahsildar is directed to correct the entries in BTR in terms of the observation as above, which shall be done at the earliest, at any rate, within one month from the date of receipt of a copy of this judgment. However, it is made clear that, this will be subject to the result of the verdict to be passed by the Apex Court, where the issue is pending by way of SLP (3172 of 2014), which arises from **2014 (1) KLT 161** (cited supra).

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.