

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

WP(C).No. 30242 of 2014 (E)

PETITIONER:

**BINO J.CHOORANOLY,
CHOORANOLICKAL HOUSE, ANTHINAD POST,
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.MATHEW JOHN,
SRI.DOMSON J.VATTAKUZH.**

RESPONDENTS:

- 1. THE BHARANANGANAM GRAMA PANCHAYATH,
BHARANANGANAM POST, KOTTAYAM DISTRICT-686 001,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
THE BHARANANGANAM GRAMA PANCHAYATH,
BHARANANGANAM POST, KOTTAYAM DISTRICT-686 001.**

BY ADV. SRI.K.K.BALAKRISHNAN (KODIYURA).

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 30242 of 2014 (E)

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- A TRUE COPY OF THE POSSESSION CERTIFICATE DATED 04/11/2014
ISSUED BY THE VILLAGE OFFICER.**
- P2:- A TRUE COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT
DATED 11/11/2014.**
- P3:- A TRUE COPY OF THE RELEVANT PORTION OF THE DRAFT DATA BANK.**

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

C.K. ABDUL REHIM, J.

W.P.(c) No. 30242 OF 2014-E

DATED THIS THE 14th DAY OF JANUARY, 2015.

J U D G M E N T

Application submitted by the petitioner seeking permit for construction of a residential building in a property owned by him was rejected through Ext.P2, stating the reason that the property is described as 'Nilam' in the document of title, possession certificate and tax receipt. Contention of the petitioner is that mere description of the nature of the property in the revenue records as 'Nilam' will not preclude the petitioner from obtaining the building permit, because the land in question was converted much prior to enactment of the Conservation of Paddy Land and Wet Land Act, 2008 (the Act for short).

2. Heard; Standing counsel appearing for respondents.

3. This court had elaborately considered the issue in a recent Division Bench decision in **Aishabeevi and another V. Superintendent of police, Ernakulam**

(2014 (3) KHC 678 (DB). It is held that, if the land was converted prior to enactment of the Act, the bar contained under Section 14 to grant permit will not be applicable, even if such conversion is made in violation of provisions of the Kerala Land Utilization order. It is held that the Act has no retrospective operation and conversion made prior to coming into force of the Act, i.e: before 12-08-2008 cannot be said as violative of the Act. It is found that there is no provision contained in the Land Utilization Order or in the Act rendering such land as illegally converted land and hence there is no bar to grant permit for building construction on such land or to use it for any purpose other than agricultural operations. This court held that there is no legal presumption either in the Kerala Land Utilization Order or in the Act that the land stood converted after the commencement of the KLU order without specific permission is an illegally converted land for which no permit can be granted.

4. In view of the legal position remaining settled as mentioned above, this court is of the opinion that the application for building permit need to be re-considered based on verification about the physical position of the land. The permit cannot be denied based on the description of the nature of the land in the revenue records.

5. Hence this writ petition is allowed and Ext.P2 is hereby quashed. The 2nd respondent is directed to re-consider the application for building permit and to take an appropriate decision, in the light of the observations contained herein above. A decision in this regard shall be taken, at the earliest possible, at any rate within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge