

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON**

**THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936**

**WP(C).No. 32464 of 2014 (G)**  
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**PETITIONER(S):**  
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1. SHABU RAJ, AGED 40 YEARS,  
S/O. MUHAMMED HANEEF, KIZHATHOTTIL VEEDU,  
KOONTHALLUR,CHIRAYINKEEZHU TALUK,  
THIURUVANANTHAPURAM DISTRICT.
2. AFTAB ASHRAF, AGED 33 YEARS,  
S/O. ASHRAF, SHALOME, MURUKKUMMOODU,  
KAYAMKULAM.

**BY ADV. SRI.A.SHAFEEK (KAYAMKULAM)**

**RESPONDENT(S):**  
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1. THE STATE OF KERALA,  
REPRESENTED BY LAND REVENUE COMMISSIONER,  
PUBLIC OFFICE BUILDING, MURIYAM,  
THIRUVANANTHPURAM - 695 001.
2. THE REVENUE DIVISIONAL OFFICER,  
THIRUVANANTHAPURAM - 695 043.
3. THE TAHSILDAR,CHIRAYINKEEZHU TALUK,  
THIRUVANANTHAPURAM DISTRICT - 695 304.
4. THE VILLAGE OFFICER,  
KOONTHALLUR, CHIRAYINKEEZHU TALUK,  
THIRUVANANTHAPURAM DISTRICT - 695 304.

**BY SR GOVERNMENT PLEADER SRI.MUHAMMED SHAFI.M.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**sts**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1 - COPY OF LAND TAX RECEIPT DT. 06.6.14.
- P1(A) - TUE COPY OF LAND TAX RECEIPT DT. 25.9.14.
- P1(B) - TRUE COPY OF LAND TAX RECEIPT DT. 17.11.14.
- P1(C) - TRUE COPY OF LAND TAX RECEIPT DT. 28.11.14.
- P2 - PHOTOGRAPH OF THE PROPERTY
- P2(A) - PHOTOGRAPH OF THE PROPERTY.
- P2(B) - PHOTOGRAPH OF THE PROPERTY.
- P2(C) - PHOTOGRAPH OF THE PROPERTY.
- P3 - TRUE COPY OF FAIR VALUE LIST OF SY. NO. 1827.
- P3(A) - TRUE COPY OF FAIR VALUE LIST OF SY NO. 1828.
- P3(B) - TRUE COPY OF FAIR VALUE LIST OF SY NO. 1885.
- P3(C) - TRUE COPY OF FAIR VALUE LIST OF SY NO. 1886.
- P3(D) - TRUE COPY OF FAIR VALUE LIST OF SY NO. 1887.
- P3(E) - TRUE COPY OF FAIR VALUE LIST OF SY NO. 1888.
- P4- TRUE COPY OF THE FAIR VALUE LIST OF PROPERTY IN SY NO. 2079.
- P4(A) - TRUE COPY OF THE FAIR VALUE LIST OF PROPERTY IN SY NO. 2080.
- P5 - TRUE COPY OF THE APPLICATION DT. 19.8.14 SUBMITTED BY THE 1ST PETITIONER.
- P6 - TRUE COPY OF THE APPLICATION DT. 19.8.14 SUBMITTED BY THE 2ND PETITIONER.
- P7 - TRUE COPY OF THE REPORT WITH RESPECT TO EXT. P5 APPLICATION OF THE 4TH RESPONDENT.
- P8 - TRUE COPY OF THE REPORT WITH RESPECT TO EXT. 06 OF THE 4TH RESPONDENT.

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- P9 - TRUE COPY OF THE ORDER DT. 24.11.14 WITH RESPECT TO EXT. P5 OF THE 2ND RESPONDENT.
- P10 - TRUE COPY OF THE ORDER DT. 24.11.14 WITH RESPECT TO EXT. P6 OF THE 2ND RESPONDENT.
- P11 - TRUE COPY OF THE CIRCULAR NO. LR A 96-17715/14(2) DT. 20.5.14.

RESPONDENT(S)' EXHIBITS: NIL  
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/TRUE COPY/

P.A.TO JUDGE

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**P.R. RAMACHANDRA MENON, J.**

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**W.P(C). No. 32464 of 2014**  
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**Dated this the 19<sup>th</sup> day of March, 2015**

**J U D G M E N T**

The petitioners have approached this Court with the following prayers:

- “i) issue a writ of certiorari such other writ, order or direction setting aside Exts.P9 & P10 orders passed by the 2<sup>nd</sup> respondent,*
- ii) issue a writ of certiorari or appropriate writ or order setting aside Ext.P11 circular issued by 1<sup>st</sup> respondent as it is issued in violation of the decision of this Hon'ble Court reported in 2012 (3) KLT 333 and 2014 (1) KLT 161.*
- iii) To declare that the petitioners land referred in Exts P5 & P6 application are liable to be classified as garden land in the Basic Tax Register and connected records.*
- iv) To issue a writ of mandamus compelling the respondents to reconsider Exts.P5 & P6 applications afresh on merits and change the nature of the petitioners' properties referred in Ext.P5 & P6 applications from paddy land to a garden land in the Basic Tax Register and connected records.*
- v) Grand such other relief as this Hon'ble Court may deem fit and proper in the interest of justice.”*

2. Heard the learned Government appearing for the respondents.

3. The basic question to be considered is whether the

relief sought for to effect corrections in the 'BTR' could be granted. The petitioners seek to place reliance on the judgment rendered by this Court as per the decision reported in **Jalaja Dileep V. Revenue Divisional Officer [2012 (3) KLT 333]**, which was affirmed by the Division Bench of this Court as per **RDO vs. Jalaja Dileep [2014(1) KLT 161]**. But the said verdict has now been set aside by the Apex Court as per the decision reported in **Revenue Divisional Officer V. Jalaja Dileep [2015 (1) KLT 984 (SC)]** holding that the BTR cannot be corrected so as to change the classification or nature of the property and if the physical nature of the property is to the effect that it has already been changed and converted prior to the commencement of the Act 28/2008, it is open for the parties concerned to approach the competent authority with reference to the provisions of the KLU to get appropriate relief. As per Exts.P7 and P8 reports of the 4<sup>th</sup> respondent/Village Officer, the property is not included in the Data Bank Register. A copy of the Data Bank Register with reference to the property concerned is also placed for perusal of this Court and as such the property is not included in the Data Bank Register.

In the said circumstances, the petitioners are set at liberty to move the competent authority in terms of the verdict passed

by the Apex Court for appropriate relief. The writ petition stands disposed of.

Sd/-

**P.R. RAMACHANDRA MENON, JUDGE.**

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