

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 32368 of 2015 (U)

PETITIONER(S):

**ELSAMMA CYRIAC, AGED 61 YEARS,
W/O.CYRIAC, PADINJARETHARATHATTEL, THIRUVANCHUR P.O.,
MANNARKAD, KOTTAYAM TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S):

- 1. REVENUE DIVISIONAL OFFICER, (R.D.O) KOTTAYAM,
KOTTAYAM DISTRICT - 686 019.**
- 2. THE DISTRICT COLLECTOR,
KOTTAYAM, CIVIL STATION, KOTTAYAM DISTRICT - 686 019.**
- 3. THE VILLAGE OFFICER,
AYARKUNNAM VILLAGE, KOTTAYAM DISTRICT - 686 564.**

BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 32368 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. COPY OF THE TAX RECEIPT DATED 12.5.14 ISSUED BY THE
AYARKUNNAM VILLAGE OFFICER.**

**EXHIBIT P2. COPY OF THE RELEVANT PAGES OF DATA BANK ISSUED BY THE
VILLAGE OFFICER, AYARKUNNAM VILLAGE.**

**EXHIBIT P3. COPY OF THE APPLICATION DATED 27.10.14 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT UNDER THE PROVISIONS
OF THE KERALA LAND UTILIZATION ORDER, 1967.**

**EXHIBIT P4. COPY OF THE JUDGMENT OF THIS HONOURABLE COURT
DATED 11.11.14 IN WPC 29715/14.**

**EXHIBIT P5. COPY OF THE ORDER DATED 19.1.2015 PASSED BY THE FIRST
RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.32368/2015**

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Dated this the 18th Day of November, 2015

J U D G M E N T

The petitioner is the owner of a property is situated in resurvey No.387/14 of Ayarkunnam Village in Kottayam District. The petitioner had approached the Revenue Divisional Officer under clause 6 of the Kerala Land Utilisation Order for permission to utilise the land for other purposes. The Revenue Divisional Officer passed Exhibit P5 order directing the petitioner to cultivate *karanellu* and other food crops other than paddy. The Revenue Divisional Officer has also directed the Agricultural Officer to give necessary assistance, on the request of the petitioner.

2. It is admitted by the learned Government Pleader that the petitioner's land is not included in the Draft Data Bank.

3. This Court is of the view that relaxation under clause 6 of the Kerala Land Utilisation Order would arise only when land cannot be utilised as a land which is required to be cultivated with crops in terms of the Kerala Land Utilisation Order. The Collector has power under the Kerala Land Utilisation Order to direct the holder of the land to cultivate the land with the food crops which were in cultivation. The

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Collector cannot direct the holder of the land to cultivate the land with other food crops. It is revealed that originally, the land was cultivated with paddy. In the above ground this Court is of the view that Exhibit P5 is unsustainable in as much as the Collector cannot direct the petitioner to cultivate food crops which is not referable under the Kerala Land Utilisation Order. Accordingly, the condition in Exhibit P5 is set aside.

4. However, in order to protect the rights of the surrounding land owners, the Revenue Divisional Officer/Collector can impose such conditions to protect the interest of the land owners of surrounding area. Accordingly, the following directions issued:

Exhibit P5 to utilise the land for carrying on cultivation of other food crops not referable under the Kerala Land Utilisation Order are set aside. The petitioner is free to utilise the land for other purposes including construction of building. The first respondent shall consider whether any further conditions need be imposed to safeguard the neighbouring rights of the land owners and surrounding areas and pass appropriate orders after hearing the petitioner in that regard within a period of two months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ms

W.P.(C).No.32368/2015

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Resurvey number of the property of the petitioner shown as “387/14” occurring in the second line of the first paragraph of the judgment dated 18/11/2015 in W.P.(C).No.32368/2015 is corrected and substituted as “387/17”, vide order dated 01/08/2017 in I.A.No.5718/2017 in W.P.(C).No.32368/2015.

Sd/- Registrar (Judicial)

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