

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 32632 of 2014 (D)

PETITIONER:

**V.P.HARIKUMAR,
VALUPARAMBIL HOUSE,
MEVELLOOR, KOTTAYAM.**

BY ADV. SRI.P.P.JACOB

RESPONDENT(S)

- 1. THE DISTRICT COLLECTOR,
COLLECTORATE , CIVIL STATION, KOTTAYAM-686002.**
- 2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICE, PALAI
KOTTAYAM, PIN-686575.**
- 3. THE TAHSILDAR,
TALUK OFFICE, VAIKOM, KOTTAYAM-686 141.**
- 4. THE AGRICULTURAL OFFICER,
AGRICULTURAL OFFICE, MULAKKULAM GRAMA PANCHAYATH,
MULAKKULAM, KOTTAYAM PIN-686 664.**

*** ADDL. R5 IMPEADED**

**ADDL. R5. LOCAL LEVEL MONITORING COMMITTEE,
MULAKKULAM GRAMA PANCHAYATH, MULAKKULAM,
REPRESENTED BY ITS CONVENER.**

*** ADDITIONAL R5 IS IMPEADED AS PER ORDER DATED 13/03/2015 IN IA
2405/2015.**

BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

vmr

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1:-TRUE PHOTOCOPY OF THE TITLE DEED PURCHASED BY THE
PETITIONER AND 4 OTHERS DTD 30/6/2014.**

**EXHIBIT P2:-TRUE PHOTOCOPY OF THE LAND TAX RECEIPT ISSUED BY THE
MULAKKULAM VILLAGE IN FAVOUR OF THE LAND OWNER DTD 6/4/2014.**

**EXHIBIT P3:-TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE FIELD OFFICER OF
THE RUBBER BOARD PERUVA TO THE PREDECESSOR IN INTEREST OF
THE PROPERTY DTD 5/8/92.**

**EXHIBIT P4:-TRUE PHOTOCOPY OF THE LETTER ISSUED BY THE FIELD OFFICER OF
THE RUBBER BOARD PERUVA TO THE PREDECESSOR IN INTEREST OF
THE PROPERTY DTD 3/7/95.**

**EXHIBIT P5:-TRUE PHOTOCOPY OF THE CERTIFICATE ISSUED BY THE RUBBER
BOARD DTD 3/7/92 TO THE PREDECESSOR IN INTEREST OF THE
PROPERTY.**

**EXHIBIT P6:-TRUE PHOTOCOPY OF THE POSSESSION CERTIFICATE ISSUED BY THE
VILLAGE OFFICER DTD 21/10/2014.**

**EXHIBIT P7:-TRUE PHOTOCOPY OF THE REPRESENTATION SUBMITTED BY THE
PETITIONER BEFORE THE RESPONDENTS 1 TO 3 DTD 7/11/2014.**

**EXHIBIT P8:- TRUE PHOTOCOPY OF THE REPRESENTATION FILED BY THE
PETITIONER BEFORE THE ADDITIONAL FIFTH RESPONDENT DATED
14/03/2015.**

RESPONDENT(S)' EXHIBITS :NIL

/TRUE COPY/

P.A.TO JUDGE

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 32632 of 2014

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Dated, this the 23rd day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) Issue a writ of mandamus or other writ or order directing the respondents 1 to 3 to consider and dispose of Ext. P7 as per law and effect necessary changes in the Basic Tax Register and classify the property of 50.18 Ares in Sy. No. 397/7A of the Mulakkulam village covered by sale deed No. 1266/2014 of Thalayolaparambu Sub Registry permitting the title holders to utilize the property for other purposes as provided by clause 6 of the Land Utilization Order

2. Declare that the property of 50.18 Ares in Sy. No. 397/7A of the Mulakkulam Village covered by sale deed No. 1266/2014 of Thalayolaparamby Sub Registry is dry land/property for other purposes and that the provisions of Act 28/2008 is not applicable to the property.

3. Issue such other reliefs which may be deem fit and proper in the facts and circumstances of the above writ petition.

2. The petitioner is one of the owners of the land having an extent of 50.18 Ares comprised in Survey No. 397/7A, covered by Ext. P1 title deed. The petitioner was enjoying the property also satisfying the tax, as borne by Ext. P1. The property, according to the petitioner, is a garden land as evident from Exts. P3 to P5. The nature of the property is also discernible from the fair value notification issued by the Government, describing the property as a dry land/purayidom. But the property has been described as 'nilam' in the Basic Tax Register. It is in the said circumstances that the petitioner has approached the respondents 1 to 3 to consider the matter and effect necessary changes in the Basic Tax Register with regard to the classification of the property concerned.

3. The third respondent has filed a statement pointing out that the property has been shown as paddy land in the draft data bank register; copy of which has been produced as Annexure R3 (a). According to the learned counsel for the petitioner, the petitioner has filed Ext. P8 representation before the 5th respondent/Local Level Monitoring Committee to cause the entry to be deleted, which is stated as a mistaken entry.

4. Heard the learned Government Pleader as well.

5. The basic question whether the BTR could be caused to be corrected had come up for consideration of this Court and as per the decision reported in **2014 (1) KLT 161 [Revenue Divisional Officer VS. Jalaja Dileep]**, a positive direction was given by a Division Bench of this Court to have the entry corrected with reference to the physical nature of the property. But now the Apex Court, as per the decision reported in **2015 (1) KLT 984 (SC) [Revenue Divisional Officer VS. Jalaja Dileep]**, has held that BTR cannot be corrected and thus overruled the decision in **2014 (1) KLT 161**. It has however been made clear that in respect of the property which was converted before the commencement of the Act 28 of 2008, the matter could be caused to be considered by the District Collector under the relevant provisions of the KLU.

6. Coming to the case in hand, the petitioner's property has been included in the draft data bank, though according to the petitioner it is a wrong inclusion. If any correction or deletion is to be made, it has to be considered by the Local Level Monitoring Committee, which is the law declared by this Court in **Castlerock Project and Developers Pvt. Ltd. Vs. Revenue Divisional**

Officer [2013 (3) KLT 545]. In view of the nature of contentions raised, the matter requires to be considered by the 5th respondent/Local Level Monitoring Committee. The petitioner has already preferred Ext. P8 representation before the additional 5th respondent.

6. In the above circumstance, the addl. 5th respondent is directed to conduct a spot inspection with notice to the petitioner and pass appropriate orders on Ext. P8, in accordance with law, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment. Depending upon the orders to be passed by the addl. 5th respondent, it is open for the petitioner to move the concerned authority under Clause 6 of the Kerala Land Utilization Order for redressal of the grievance, if any.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the addl. 5th respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd