

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 32531 of 2015 (N)

PETITIONER :

**FR. JOPPAN CHETHIKUNNEL, AGED 41 YEARS,
PROCURATOR, SACRED HEART MONASTERY,
SH MOUNT P.O., KOTTAYAM.**

BY ADV. SRI.P.S.GEORGE

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR, KOTTAYAM-686001.**
- 3. THE REVENUE DIVISIONAL OFFICER, KOTTAYAM-686001.**
- 4. THE VILLAGE OFFICER
PERUMBAIKADU VILLAGE, KOTTAYAM-686001.**
- 5. THE AGRICULTURAL OFFICER,
KRISHIBHAVAN, KUMARANELLOOR-686012.**
- 6. THE LANAD REVENUE COMMISSIONER,
OFFICE OF THE LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM-695001.**

BY GOVERNMENT PLEADER SMT. C.K. SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF TAX RECEIPT DATED 2.7.2014 ISSUED BY THE VILLAGE OFFICER.
- EXHIBIT P2: TRUE COPY OF RELEVANT PAGE OF DRAFT DATA BANK OF PERUMBAIKADE VILLAGE, DATED NIL.
- EXHIBIT P3: TRUE COPY OF THE OBJECTION DATED 29.5.2013 FILED BY THE PETITIONER.
- EXHIBIT P4: TRUE COPY OF THE REPORT OF THE AGRI. OFFICER DATED NIL.
- EXHIBIT P5: TRUE COPY OF THE NOTICE DATED 13.6.2014 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P6: TRUE COPY OF THE APPLICATION DATED 2.7.2014 FILED BEFORE 3RD RESPONDENT UNDER KLU ORDER 1967.
- EXHIBIT P7: TRUE COPY OF THE JUDGMENT DATED 17.3.2015 IN WPC NO.17285/2014.
- EXHIBIT P8: TRUE COPY OF THE ORDER DATED 8.8.2015 ISSUED BY 3RD RESPONDENT REVENUE DIVISIONAL OFFICER.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPT//

P.A.TO JUDGE

bp

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 32531 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

The petitioner is the owner of the land and property comprised in Re-Survey Nos.475/1-1 and 475/2-1 in Block No.26 of Perumbaikkad Village, Kottayam Taluk.

2. The petitioner approached Revenue Divisional Officer, Kottayam under clause 6(2) of the Kerala Land Utilisation Order, seeking permission to utilise the land for other purposes. This has been rejected as per Ext.P8. The petitioner approached this Court challenging Ext.P8.

3. Admittedly, the land in question is not included in the Draft Data Bank. The Revenue Divisional Officer refused to act upon the request of the petitioner for the obvious reason that the land was converted before the enactment of Act 28/2008. This Court in several judgment

held that the conversion of the land before the enactment of Act 28/2009 cannot be a reason to decline a permission under the Kerala Land Utilisation Order.

4. Essentially, the Kerala Land Utilisation Order is issued under the Essential Commodities Act. The object of the Kerala Land Utilisation Order is to secure the cultivation of food crops. When the cultivation of food crops ceased to exist, and the District Collector fails to exercise their power under clause 7 of the Kerala Land Utilisation Order commanding the holder of the land to cultivate the food crops, there is no impediment under law in granting permission under clause 6 of the Kerala Land Utilisation Order. The retention of the power of the State in terms of Kerala Land Utilisation order is to ensure the cultivation of food crops which were in cultivation in the land. The State has no case that at any point of time they have exercised their power commanding the holder of the land to cultivate food crops which were in cultivation.

5. In that scenario, this Court is of the view that Ext.P8 is unsustainable and accordingly, Ext.P8 is set aside.

6. There shall be direction to the Revenue Divisional Officer, to grant necessary permission to the petitioner under clause 6 of the Kerala Land Utilisation Order after imposing necessary condition to protect any neighbouring properties. Needful shall be done within a period of two months.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

bpr