

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 32814 of 2014 (B)

PETITIONER(S):

**C.K.SHANMUGHAN, 75 YEARS, S/O.KOCHAPPU,
KONNATH HOUSE (OMKARAM), AIMS P.O.,
PONEKKARA, KOCHI-682041, ERNAKULAM DISTRICT.**

BY ADV. SRI.C.S.MANU

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT COLLECTOR,
ERNAKULAM, COLLECTORATE, CIVIL STATION,
KAKKANAD, ERNAKULAM, PIN - 682030.**
- 3. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, ERNAKULAM, PIN - 682001.**
- 4. THE TAHSILDAR, KANAYANNOOR TALUK,
TALUK OFFICE, ERNAKULAM DISTRICT, PIN - 682011.**
- 5. THE VILLAGE OFFICER, EDAPPALLY NORTH VILLAGE,
EDAPPALLY, ERNAKULAM DISTRICT, PIN - 682024.**
- 6. THE AGRICULTURAL OFFICER,
KRISHIBHAVAN, VYTTILA P.O., ERNAKULAM, PIN - 682019.**

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 32814 of 2014 (B)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1:** TRUE COPY OF THE SALE DEED DATED 7.5.1981 REGISTERED AS DOCUMENT NO.2845 OF 1981 OF SRO, EDAPPALLY.
- EXHIBIT-P2:** TRUE COPY OF THE NOTICE BEARING NO.EY P3-1837/0114 DATED 27.10.2014 ISSUED BY THE ASSISTANT EXECUTIVE ENGINEER, CORPORATION OF COCHIN TO THE PETITIONER.
- EXHIBIT-P3:** TRUE COPY OF THE APPLICATION DATED 23.1.2014 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.
- EXHIBIT-P4:** TRUE COPY OF THE REPORT BEARING NO.55/2014 AND K2-1276/14 DATED 3.2.2014 SUBMITTED BY THE VILLAGE OFFICER, EDAPPALLY NORTH VILLAGE TO THE 3RD RESPONDENT.
- EXHIBIT-P5:** TRUE COPY OF THE APPLICATION DATED 23.6.2014 SUBMITTED BY THE PETITIONER TO THE 3RD RESPONDENT.
- EXHIBIT-P6:** TRUE COPY OF LETTER BEARING NO.K2-5877/14/I DIS.DATED 5.9.2014 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
- EXHIBIT-P7:** TRUE COPY OF THE REPRESENTATION DATED 4.12.2014 SUBMITTED BY THE PETITIONER TO THE 6TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 32814 of 2014

Dated this the 7th day of January, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “(i) Issue a Writ of Certiorari or any other appropriate writ, order or direction calling for the records leading to Exhibit P-6 and quash Ext.P-6.*
- (ii) Issue a writ of mandamus or any other appropriate writ, order or direction, directing the 3rd respondent to permit the petitioner for use of the petitioner's land covered by Ext.P-1 for purposes other than cultivation including establishment of Industrial unit and construction of building and to re-classify the land as dry land in the revenue records and the land date bank.*
- (iii) Allow cost of the petition to the petitioner.”*

2. The learned counsel for the petitioner submits that, the property of the petitioner is actually a 'dry land'/'purayidam' and that the petitioner approached the 6th respondent by filing Ext.P7 representation, seeking to reclassify the land as dry land/purayidam in the 'Data Bank Register' as well. It is stated that, the 6th respondent being the Convenor of the 'Local Level Monitoring Committee' under the Kerala Conservation of Paddy Land & Wet Land Act, 2008, the callous inaction on the part of the said respondent in causing the matter to be considered and

finalised, with regard to the prayer of the petitioner to delete the property of the petitioner from the 'Data Bank Register' effecting necessary corrections, is liable to be intercepted by this Court and hence the writ petition.

3. The learned Government Pleader points out that, the nature of the property is clearly given in the report of the Village Officer which had been addressed to the Sub Collector. If there is any factual dispute with regard to the nature of the land, the matter has to be considered by the 'Local Level Monitoring Committee', who as such is not included in the party array.

4. The learned counsel for the petitioner submits that the petitioner will be satisfied, if a direction is given to the 6th respondent to cause the matter to be considered by the 'Local Level Monitoring Committee', in accordance with law, simultaneously adding that the nature of the land in question is discernible from Ext.P2 notice as well, issued by the Assistant Executive Engineer of the Corporation of Cochin, wherein it has been stated that the property as per the structural plan is situated in M2 'Industrial Zone'.

5. In the above circumstance, there will be a direction to the 6th respondent to cause Ext.P4 application to be considered by

the competent authority and the competent authority shall pass appropriate orders, in accordance with law, after giving an opportunity of hearing to the petitioner, taking note of all the relevant facts and figures and also the relevant records. The said exercise shall be completed at the earliest, at any rate, within 'three months' from the date of receipt of a copy of this judgment. The petitioner is also set at liberty, if favourable orders are obtained taking the property outside the purview of 'Data Bank Register', to prefer an application before the 3rd respondent under Clause 6 of the Kerala Land Utilization Order, 1996, upon which the 3rd respondent shall consider the matter, immediately, also as to whether any such permission is necessary since the property is stated as included in the structural plan as 'Industrial Zone' as discernible from Ext.P2 and also in the light of ruling rendered by this Court as per decision reported in **Reliance Industries Ltd.**

V. Commissioner of Land Revenue (2007 (2) KLT 850).

The writ petition stands disposed of accordingly.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.