

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 37094 of 2010 (J)

PETITIONER :

**P.T.SHAFEEK, AGED 36 YEARS, S/O.
AHAMMADKUTTI, RESIDING AT PALLIPATTU THUMBIL, HOUSE
B.P.ANGADI P.O., TIROOR, MALAPPURAM DIST. PIN-676 102.**

**BY ADVS.SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB
SMT.RABIA BEEGAM T.K.
SRI.JOBI.A.THAMPI
SMT.M.KABANI DINESH**

RESPONDENTS :

- 1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, GOVT. OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM 695001**
- 2. THE SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM - 695001**
- 3. JOINT SECRETARY,
AGRICULTURE DEPT., GOVT. OF KERALA
THIRUVANANTHAPURAM - 695001**
- 4. THE COMMISSIONER OF LAND REVENUE,
KERALA, THIRUVANANTHAPURAM - 695001**
- 5. REVENUE DIVISIONAL OFFICER,
TIRUR, MALAPPURAM DISTRICT - 676001**

BY GOVERNMENT PLEADER SRI. S. JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE NOTICE DTD 1/6/2001 ISSUED BY THE TAHSILDAR, LAND ACQUISITION, TIRUR.**
- P2: COPY OF THE PARTITION DEED DTD 30/4/2005 OF THE KODAKKAL SUB REGISTRAR OFFICE.**
- P3: COPY OF THE FORM 10 NOTICE ISSUED BY THE SPECIAL TAHSILDAR LA(G), TIRUR, VIE A 194/199.**
- P3(a): COPY OF FORM 12 NOTICE ISSUED BY SPECIAL TAHSILDAR LA (G), TIRUR, UNDER REF. NO. A. 194/99.**
- P4: COPY OF THE ORDER DTD 26/4/2007 PASSED BY THE R5 RDO, TIRUR.**
- P5: COPY OF THE ORDER NO. LAR 1- 24501/2007 DT 17/9/2008 OF THE R4 DISMISSING APPEAL OF THE PETITIONER.**
- P6: COPY OF JUDGMENT DTD 25/3/2010 IN WPC NO. 10250 OF 2010.**
- P7: COPY OF THE ORDER DT 23/9/2010 OF THE REVISION FILED BEFORE THE R2.**
- P8: NOTICE DT 19/11/2010 ISSUED BY R5.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

K. VINOD CHANDRAN, J.

W.P.(C) No. 37094 of 2010 (J)

Dated this the 7th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner has been asked to resume 85.500 cents of land in Survey No.136/6 in Thalakkad Village, Tirur Taluk in Malappuram District.

2. The petitioner contends that despite the fact that the land was a paddy land, about 30 years back, the same was converted long back and a portion of the total properties belonging to the family of the petitioner was acquired in the year 1999 for construction of Tirur-Kuttiapuram Bypass road. The land is said to be now situated by the side of the road so constructed. There is no paddy lands in the vicinity, is the specific averment.

3. The petitioner, in fact, approached the authority under the Kerala Land Utilization Order, 1967 for building a house in the said land, seeking conversion of 10½ cents.

However, the said application was not fully allowed since it was found by the R.D.O. that only 5 cents could be permitted to be converted for residential purposes. The said order is produced at Ext.P4. By Ext.P4 it was also directed that resumption of balance portion of the land has to be made, making it conducive for paddy cultivation since the petitioner was alleged to have converted the entire land. An appeal was filed, which was rejected by Ext.P5 and subsequent revision was also rejected by Ext.P7. It is thereafter that Ext.P8 was issued by the R.D.O. directing resumption of the property.

4. As of now the Local Level Monitoring Committees (LLMC) constituted for each area, under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (for brevity the 'Act'), has either prepared a draft data bank or notified a data bank; of the properties which are covered under the Act. The converted lands, so included in the draft data bank, also can be sought to be removed from the draft

data bank before the L.L.M.C. However, on a notification having been made, the petitioner will have to take appropriate action against the same.

5. In such circumstance, it is for the petitioner to examine as to whether the petitioner's land is notified as a 'paddy land' and then to take appropriate proceedings either before the L.L.M.C. and if not included in the data bank, to file appropriate application before the authorities under the Kerala Land Utilization Order, 1967. The petitioner shall take either of the said course within a period of two months from today. Ext. P4 to the extent it orders resumption and Exts.P5 and P7 orders in appeal and revision shall stand set aside. So shall be the fate of Ext.P8 too.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE