

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 33762 of 2014 (U)

PETITIONER(S):

**K.K. RADHAKRISHNAN,
NANDANANM, KINARULLAKANDY,
NANMINDA POST, KOZHIKODE-673 613.**

BY ADV. SRI.NIDHI BALACHANDRAN.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY DEPARTMENT OF LAND REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDING, THIRUVANANTHAPURAM-695 001.**
- 3. THE DISTRICT COLLECTOR, KOZHIKODE-673 573.**
- 4. THE REVENUE DIVISIONAL OFFICER, KOZHIKODE-673 573.**
- 5. THE VILLAGE OFFICER,
NANMANDA, KOZHIKODE-673 573.**
- 6. THE CONVENER,
LOCAL MONITORING COMMITTEE
(AS PER KERALA PADDY LAND WETLAND CONVERSION ACT)
(THE AGRICULTURE OFFICER, NARIKKUNNI KRISHIBHAVAN),
KOZHIKODE-673 573.**
- 7. THE CHAIRMAN,
LOCAL MONITORING COMMITTEE,
(AS PER KERALA PADDY LAND WETLAND CONVERSION ACT)
(THE PRESIDENT, NARIKKUNI GRAMA PANCHAYATH),
NARIKKUNNI, NANMINDA, KOZHIKODE-673 573.**

R1 TO R6 BY GOVT. PLEADER SRI.K.C. VINCENT.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1: COPY OF THE ORDER DATED 23/07/2014 ISSUED BY THE 3RD RESPONDENT.
- P2: COPY OF THE APPEAL DATED 20/08/2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.
- P3: COPY OF THE COMMUNICATION DATED 04/09/2014 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.
- P4: COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 25/08/2014 BEFORE THE 6TH RESPONDENT.
- P5: COPY OF THE APPLICATION FILED BY THE PETITIONER DATED 25/08/2014 BEFORE THE 7TH RESPONDENT.
- P6: COPY OF THE REPORT OF THE DEPUTY COLLECTOR (LR) OBTAINED UNDER RIGHT TO INFORMATION ACT ON 10/10/2014 BY THE PETITIONER.
- P7: COPY OF THE PHOTOGRAPHS OF THE PETITIONER'S PROPERTY.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.33762 of 2014

Dated this the 6th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"1. Declare that the petitioner is entitled to correct/convert the nature of the property of 48.5 cents of land in Resurvey number 9/1 of Narikunni Village, Kozhikode owned by the petitioner on the basis of the reports of the Deputy Collector (LR), Agricultural Officer and Village Officer and issue a writ of Certiorari or any other writ order or direction quashing Exhibit P1.

2. Issue a Writ order or direction commanding the respondents to correct/convert the data bank and other revenue records taking into consideration of the true nature of the property of 48.5 cents of land in Resurvey number 9/1 of Narikunni Village, Kozhikode owned by the petitioner.

3. Issue a Writ order or direction commanding the 6th and 7th respondents to dispose of Exhibits P4 & P5 taking into consideration of the true nature of the property of 48.5 cents of land in Resurvey number 9/1 of Narikunni Village, Kozhikode owned by the petitioner.

4. Grant such other reliefs as may be prayed for and as the court may deem fit to grant and

5. Grant the cost of this Writ Petition."

2. The learned counsel for the petitioner submits that, the

property having an extent of 48.5 cents of land comprised in Resurvey No.9/1 of Narikunni Village, Kozhikode District is not a 'paddy land' or 'wet land' as defined under Act 28 of 2008. But the same came to be wrongly included in the Data Bank Register, which is nothing, but a mistake. It is in the said circumstances that, the petitioner has moved the concerned authorities to have it deleted from the Data Bank Register. The petitioner has been let known by the District Collector that, there is no provision to accede to the relief sought for by the petitioner, thus expressing helplessness. This made the petitioner to approach the 2nd respondent by way of Ext.P2 appeal. The stand taken by the District Collector was virtually reported by the 2nd respondent as well, as evident from Ext.P3, adding that no appeal will lie against the order. The appeal preferred by the petitioner was rejected as per Ext.P3 order dated 04.09.2014 stating that no power is vested with the 2nd respondent to deal with the appeal of the said nature. This made the petitioner to approach this Court by filing the writ petition.

3. Heard the learned Special Government Pleader as well.

4. After hearing both the sides, this Court finds that by virtue of the enabling provision under the statute, particularly Rule 4(2)(b) of the Kerala Conservation of Paddy Land and Wet Land Act, 2008, if any property came to be wrongly included in the Data Bank Register, it is open for the parties to approach the Local Level Monitoring Committee to cause the same to be deleted from the Draft Data Bank Register. The Local Level Monitoring Committee is to conduct an inspection and it is open for them to pass appropriate orders in this regard. This is more so, in the light of in view of the ruling rendered by a Division Bench of this Court in ***Adani Infrastructure & Developers Pvt. Ltd. v. State of Kerala (2015 (1) KLT 651)***.

5. In the said circumstances, Exts.P1 and P3 are set aside. The respondents 6 and 7 are directed to consider Exts.P4 and P5, after conducting a spot inspection with notice to the petitioner and pass appropriate orders in accordance with law. This shall be done at the earliest, at any rate, within 'six weeks' from the date

of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment, along with a copy of the writ petition, before the concerned respondents, for further steps.

The writ petition is disposed of.

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

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