

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 33991 of 2014 (Y)

PETITIONERS:

1. NADHEERABHANU, AGED 24 YEARS,
W/O.FIROZ KHAN, GARDEN STREET, KOPPAM AMSOM,
DESOM, PALAKKAD TALUK, PALAKKAD DISTRICT.
2. FIROZKHAN, AGED 31 YEARS,
S/O.ABDHUL MAJEED, GARDEN STREET, KOPPAM AMSOM, DESOM,
PALAKKAD TALUK, PALAKKAD DISTRICT.
3. SOFIYA, AGED 33 YEARS,
W/O.MUHAMMED RAFI, MEENA NAGAR, KALMANDAPAM,
PALAKKAD TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

1. THE TAHSILDAR
PALAKKAD, PIN: 678 001.
2. THE VILLAGE OFFICER,
YAKKARA VILLAGE, PALAKKAD DISTRICT, PIN: 678 003.

BY GOVERNMENT PLEADER, SRI. JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 33991 of 2014 (Y)

APPENDIX

PETITIONERS' EXHIBITS

- EXT.P1: A COPY OF SALE DEED NUMBER 4096/2007 OF SRO, PALAKKAD**
- EXT.P2: A COPY OF THE POSSESSION CERTIFICATE NUMBER 846/2007 DATED
18/4/2007 ISSUED BY THE SECOND RESPONDENT**
- EXT.P3: A COPY OF THE POSSESSION CERTIFICATE NUMBER 845/2007 DATED
18/4/2007 ISSUED BY THE SECOND RESPONDENT**
- EXT.P4: A COPY OF THE LOCATION CERTIFICATE DTD. 11/12/2014 ISSUED BY
THE SECOND RESPONDENT.**
- EXT.P5: A COPY OF THE CERTIFICATE DTD. 11/12/2014 CERTIFIED BY THE
SECOND RESPONDENT.**
- EXT.P6: A COPY OF THE LOCATION SKETCH RELATING TO THE PLOT.**
- EXT.P7: A COPY OF THE CERTIFICATE DATED. 8/12/2014 ISSUED BY THE
AGRICULTURAL FIELD OFFICER.**
- EXT.P8: A COPY OF THE RELEVANT PAGES OF THE FINAL DATA BANK FOR
THE AREA.**
- EXT.P9: A COPY OF THE CURRENT PHOTOGRAPHS RELATING TO THE PLOT.**

RESPONDENTS' EXHIBITS : **NIL**

//TRUE COPY//

P.A. TO JUDGE

DST

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 33991 of 2014

Dated this the 19th day of January, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers.

- “i) Issue a writ in the nature of mandamus commanding the 2nd respondent to receive basic tax and issue a possession certificate to the petitioners in respect of their property covered by Exts.P1 as dry land;*
- ii) Declare that the property of the petitioners covered by exhibit P1 is dry land and issue a writ in the nature of mandamus commanding the respondents to make consequential changes in the revenue records.”*

2. The case of the petitioners is that, the property is actually lying as a reclaimed land and was never lying as a paddy land or wet land as on the date of commencement of the Conservation of Paddy Land and Wet Land Act, 2008. Reliance is also sought to be placed on Exts.P2 and P3 'Possession Certificates' issued as early as on 18.04.2007, showing the exact nature of the property. Despite this, the respondents are now refusing to accede to the request of the petitioners to issue a fresh 'Possession Certificate' and to accept the tax receipt, as it was being done earlier, simply stating that the property is a

paddy land.

3. When the matter came up for consideration before this Court on 12.01.2015, the following order was passed:

“Learned GP seeks for time to file a statement as to the facts and circumstances particularly with regard to the entries as given in the BTR.

Post on 19.01.2015.”

4. The learned Government Pleader submits on the basis of instructions that, the property happens to be shown as 'Nilam' in the BTR. But on physical verification of the property it is revealed that the same is 'reclaimed land' and even in the Data Bank Register, it has been recorded that reclamation was effected prior to commencement of the Act, 28/2008. The learned Government Pleader fairly submits that the request of the petitioners for accepting the tax and issuance of fresh 'Possession Certificate' showing exact nature of the land would be considered and acceded to within shortest possible time.

5. In the said circumstances, the writ petition is disposed of, recording the submission made on the part of the learned Government Pleader. It shall be given effect to, within two months from the date of receipt of a copy of this judgment. It is

open for the petitioners to approach the appropriate authority by filing necessary petition under Clause (6) of the Kerala Land Utilization Act, so as to have the grievance redressed in toto.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.

Pn