IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 12TH DAY OF MARCH 2015/21ST PHALGUNA, 1936

WP(C).No. 34054 of 2014 (F)

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PETITIONER(S):

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1. C. CHANDRIKA,
   W/O.NALINAKSHAN, BEENA NIVAS, ALUMOODU
   ANDOORKOLAM, THIRUVANANTHAPURAM.

2. MOHANAKUMARI,
   W/O. ANIRUDHAN, 703, LAVANYA, KARIYIL
   KAZHAKUTTAM, THIRUVANANTHAPURAM.

   BY ADV. SRI.MATHEW JOHN (K)

RESPONDENT(S):

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1. THE TAHSILDAR
   THRIUVANANTHAPURAM 695 001

2. THE REVENUE DIVISIONAL OFFICER,
   THIRUVANANTHAPURAM 695 001

   BY GOVERNMENT PLEADER SRI.M.J.RAJASREE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 34054 of 2014 (F)
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APPENDIX

PETITIONER(S)' EXHIBITS
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|---|---|
| EXT.P1 | PHOTOGRAPHS SHOWING THE PROPERTY OF THE PETITIONERS AND THE ADJOINING PROPERTIES |
| EXHIBIT P1(A) | PHOTOGRAPHS SHOWING THE PROPERTY OF THE PETITIONERS AND THE ADJOINING PROPERTIES |
| EXHIBIT P2 | A TRUE COPY OF THE BASIC TAX REGISTER IN RESPECT OF THE PROPERTY OF THE 1ST PETITIONER |
| EXHIBIT P3 | A TRUE COPY OF THE BASIC TAX REGISTER IN RESPECT OF THE PROPERTY OF THE 2ND PETITIONER |
| EXHIBIT P4 | A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITIONER DATED 15-12-2014 |
| EXHIBIT P5 | A TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND PETITIONER DATED 15-12-2014 |
| EXHIBIT P6 | A TRUE COPY OF THE RODER DATED 13-11-2014 IN WPC NO 20565 OF 2014 |

RESPONDENT(S)' EXHIBITS
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NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

**P.R. RAMACHANDRA MENON, J.**

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**W.P(C). No. 34054 of 2014**

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**Dated this the 12th day of March, 2015**

**JUDGMENT**

The petitioners have approached this Court with the following prayers:

> *"i. Issue a writ in the nature of Mandamus or any other appropriate writ, direction or order commanding the respondent to correct the basic tax registers [Exts.p2 and P3] as applied for by the petitioners in Exts.P4 and P5 representations.*
>
> *ii. Issue a writ in the nature of Mandamus or any other appropriate writ, direction or order commanding the respondent to pass final orders on Exts.P4 & P5 without any further delay.*
>
> *Iii. Issue such other writ, direction or order as are just and necessary in the facts and circumstances of the case to meet the ends of justice."*

2. Heard the learned counsel for the petitioners as well as the learned counsel appearing for the respondents.

3. On going through the pleading and proceedings, the main grievance of the petitioners appears to be with regard to the nature and description of the land in the Revenue records and the relief sough for is to have it corrected. The question whether the 'BTR' could be corrected or not came to be considered by the

Apex Court and as per the recent judgment in **Revenue Divisional Officer V. Jalaja Dileep (2015 (1) KLT 984 (SC)**. The Apex Court has made it clear that no such correction is possible in the BTR. The verdict passed by the Division Bench of this Court in **RDO vs. Jalaja Dileep [2014(1) KLT 161]** has been set aside. Paragraph 21 of the said verdict reads as follows:

> *"21. Statutory enquiry to ascertain whether the land is a "Paddy Land" or "Wetland" and conversion of the land for residential purpose or for any public purpose is governed by K.L.U. Order or the Kerala Wetland Act, 2008 for conversion of the land from "Nilam" (Wetland) to 'Purayidam' (Dry Land). The concerned authorities constituted under K.L.U. Order or Kerala Wetland Act 2008 are the competent authority. Nature of the land cannot be changed or converted by directing changes in the Basic Tax Register which is maintained only for the purpose of land tax. The rectification envisaged by Section 18 of Kerala Land Tax Act can only be in respect of arithmetical or clerical error, that too in the order of determining the tax due. Section 18 cannot be made use or the same cannot be taken as a means to effect conversion of the nature of the land bye-passing the competent authority and the procedure stipulated under the K.L.U. Order, 1967 and the Kerala Wetland Act, 2008 and the impugned judgment is liable to be set aside."*

4. In the above circumstances, this Court finds that, the

petitioners can pursue the matter as to the claim that the property is lying as a dry land and the same was converted much prior to commencement of the Act 28/2008, by pursuing Ext.P4 representation pending before the 1st respondent, who is the competent authority to consider the same and pass appropriate orders, with reference to the provisions of the KLU.

5. Accordingly, there will be a direction to the 1st respondent to consider and pass appropriate orders on Ext.P4, after hearing, at the earliest, at any rate, within 'two months' from the date of receipt of a copy of the judgment.

The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the 1st respondent for further steps.

Sd/-

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

Pn

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

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