

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 34422 of 2014 (C)

PETITIONER:

**BHASKARAN NAIR, AGED 69 YEARS,
SON OF GOURI AMMA, RESIDING AT ANANTHURUTHI HOUSE,
VENGOOR, KIDANGOOR P.O, ANGAMALY VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT 683572.**

BY ADV. SRI.N.ANILKUMAR

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM 695 001**
- 2. THE REVENUE DIVISIONAL OFFICE,
OFFICE OF RDO,FORT KOCHI 682 002.**
- 3. THE TAHSILDAR
ALUVA TALUK, ALUVA 683101,
ERNAKULAM DISTRICT.**
- 4. THE DISTRICT COLLECTOR,
ERNAKULAM DISTRICT, KAKKANAD KOCHI 682 030**
- 5. STATE OF KERALA,
REPRESENTED BY THE SECRETARY
AGRICULTURAL DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001.**

R1 TO R5 BY GOVERNMENT PLEADER SMT.M.J.RAJASREE

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- PHOTOSTAT COPY OF THE PARTITION DEED NO 2742/1987 OF
ANGAMALY SUB REGISTRAR'S OFFICE.**
- EXHIBIT P2- PHOTOSTAT COPY OF THE SALE DEED NO 1823/1991 OF ANGAMALY
SUB REGISTRAR'S OFFICE.**
- EXHIBIT P3- PHOTOSTAT COPY OF THE TAX RECEIPT DATED 16-07-2013 FOR THIS
PROPERTY AND OTHER PROPERTIES.**
- EXHIBIT P4- TRUE COPY OF THE RELEVANT PAGE OF THE CLASSIFICATION
REPORT OF THE MONITORING COMMITTEE.**
- EXHIBIT P5- TRUE COPY OF THE REPRESENTATION DATED 18-09-2014
SUBMITTED BEFORE THE DISTRICT COLLECTOR, ERNAKULAM
ALONG WITH A COPY OF THE DATA BANK.**

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

vmr.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 34422 of 2014

Dated this the 23rd day of March, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

- “(i) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the fourth Respondent-District Collector to permit the Petitioner to make constructions in the land owned by Petitioner comprised in Re-survey No.198/4 in Block No.XII of Angamaly Village;*
- (ii) To issue a writ of mandamus or any other appropriate writ, order or direction directing the fourth Respondent to take a decision on Exhibit P-5 Representation at the earliest and permit the Petitioner to make other lawful activities in the said property including construction;*
- (iii) to grant the Petitioner such other and further reliefs that may be prayed for from time to time and this Honourable Court may deem fit and proper to grant in the interest of justice.”*

2. The petitioner is the owner of the property having an extent of 14.431 Ares comprised in Re-survey No.198/4 in Block No.XII of Angamaly Village, Vengoor Kara, covered by Exts.P1 to P3. It is stated that, the said property is not a paddy land or wet land as defined under Act 28/2008. But the same stands

described as 'Nilam' in the Revenue Records. By virtue of such description the petitioner is virtually prevented from effecting any construction in the property. This made the petitioner to approach the concerned respondents for causing correction in the BTR. Since the representation has not turned to be fruitful, the petitioner is constrained to approach this Court by filing the writ petition.

3. Heard the learned counsel for the petitioner as well as the learned Government Pleader appearing for the respondents.

4. During the course of hearing, the learned counsel for the petitioner seeks to place reliance on the verdict passed by the Division Bench of this Court in **RDO V. Jalaja Dileep [2014 (1) KLT 161]** directing the concerned respondent to effect correction in the BTR reckoning the physical nature of the property. But the said decision has been overruled by the Hon'ble Supreme Court recently as per the decision reported in **Revenue Divisional Officer V. Jalaja Dileep [2015 (1) KLT 984 (SC)]**, holding that BTR cannot be corrected. However, it has been made clear by the hon'ble Supreme Court that, if the properties are already converted prior to the commencement of the Act 28/2008, the

parties like the petitioners are having remedy to pursue the matter by necessary petition under the relevant provisions of the KLU, so as to enable them to make use of the property for other purpose than agricultural purpose.

5. In the said circumstances, the petitioner is set at liberty to file a petition under Clause 6(2) of the KLU before the 2nd respondent within 'two weeks' from the date of receipt of a copy of the judgment, upon which the same shall be considered and appropriate orders shall be passed in terms of the judgment as aforesaid. It shall be done after hearing, at the earliest, at any rate, within 'six weeks' from the date of receipt of such petition.

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

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.