

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 19TH DAY OF NOVEMBER 2015/28TH KARTHIKA, 1937

WP(C).No. 34966 of 2015 (U)

PETITIONER(S) :

**MOHAN DAS, SON OF THANKAPPAN PILLA,
KURUPPAMPARAMBATHU NJANOR HOUSE, KARUMALLOOR VILLAGE,
VELIYATHUNADU PO, PIN-683 511, PARUR TALUK.**

**BY ADVS.SRI.A.C.DEVY
SRI.P.S.GEORGE**

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM -695 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, ERNAKULAM-682 001.**
- 3. THE TAHSILDAR,
PARUR TALUK, PARUR-685 311.**
- 4. THE VILLAGE OFFICER,
KARUMALLOOR VILLAGE-685 311.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 : TRUE COPY OF TAX RECEIPT DATED 03-07-2015 ISSUED BY
THE 4TH RESPONDENT.**
- P2 : TRUE COPY OF COMMUNICATION DATED 20-06-2015 ISSUED BY
THE 4TH RESPONDENT.**
- P3 : TRUE COPY OF THE APPLICATION DATED 12-06-2015 UNDER KLU ORDER
BEFORE THE 2ND RESPONDENT.**
- P4 : TRUE COPY OF REPORT OF THE 4TH RESPONDENT DATED 03-07-2015.**
- P5 : TRUE COPY OF JUDGMENT DATED 27-07-2015 IN WPC.NO.21779 OF 2015
OF HON'BLE HIGH COURT OF KERALA.**
- P6 : TRUE COPY OF ORDER DATED 20-10-2015 PASSED BY
THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.34966 of 2015

Dated this the 19th day of November, 2015

JUDGMENT

The petitioner has approached this Court challenging an order passed by the Revenue Divisional Officer under Clause 6 of the Kerala Land Utilisation Order, 1967 (for short, the 'KLUO').

2. The petitioner's request for utilizing the land for other purposes has been rejected stating that the petitioner intends to sell the property and therefore, permission cannot be granted. It was further observed that the purchaser of the land if wants to make application under Clause 6(2) of the KLUO, he is free to approach with an application under Clause 6 of the KLUO.

3. The power endowed with the Collector under the KLUO to permit the land owner to utilize the land for other purposes if the land is not required for cultivating any food crops which were in cultivation in the land. Therefore, the Collector has to find out whether the land is required for cultivation of food crops. If it is not required as above, necessarily, permission can be granted under Clause 6 of the KLUO to utilize the land for other purposes.

4. In the impugned order, a reference has been made to the report of the Agricultural Officer. It is stated in the report that the land is suitable for cultivation of plantain, vegetables, upland paddy etc. The Collector has only power to command the owner of the land to cultivate foodcrops which were in cultivation in the land and not any other foodcrops.

In such circumstances, this Court is of the view that there is no impediment in granting submission under Clause 6 of the KLUO. Accordingly, the impugned order is set aside. The Revenue Divisional Officer is directed to reconsider the matter afresh after hearing the petitioner in the light of the discussions as above. It is made clear that the intention of the petitioner to sell the property cannot be a reason to decline the permission. Needful shall be done within one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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