

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

WP(C).No. 35547 of 2015 (P)

PETITIONER(S):

1. SATHISH, AGED 31 YEARS, S/O. V.V.SASI,
VELLAYIKUDAM HOUSE, SOUTH VELLARAPPALLY,
CHOWARA THEKKUMBHAGOM VILLAGE,
SREEMOOLANAGARAM, ALUVA TALUK,
ERNAKULAM DISTRICT-683 580.
2. SHYLAJA, AGED 53 YEARS, W/O. V.V.SASI,
VELLAYIKUDAM HOUSE, SOUTH VELLARAPPALLY,
CHOWARA THEKKUMBHAGOM VILLAGE,
SREEMOOLANAGARAM, ALUVA TALUK,
ERNAKULAM DISTRICT-683 580.
3. T.P.THANKACHAN, AGED 50 YEARS,
S/O. T.A.PAILY, THOTTATHIL HOUSE,
MANIKYAMANGALAM, KALADY, ALUVA,
ERNAKULAM DISTRICT-683 574.

BY ADV. SRI.JELSON J.EDAMPADAM

RESPONDENT(S):

1. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI, ERNAKULAM DISTRICT-682 001.
2. THE TAHSILDAR,
ALUVA TALUK, ERNAKULAM DISTRICT-683 101.
3. THE VILLAGE OFFICER , KALADY VILLAGE,
ALUVA TALUK, ERNAKULAM DISTRICT - 683 574.
4. THE CONVENER,
LOCAL LEVEL MONITORING COMMITTEE, KRISHI BHAVAN,
KALADY, ERNAKULAM DISTRICT - 683 574.

BY GOVERNMENT PLEADER SMT.C.K.SHERIN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : TRUE COPY OF THE LICENCE BEARING NO.A2-166/2015-16 DTD.29.4.2015 FOR RUNING METAL CRUSHER AND M-SAND MANUFACTURING UNIT ISSUED TO THE PETITIONER.
- P2 : TRUE COPY OF THE LICENCE BEARING NO.A2-167/2015-16 DTD.29.4.2015 FOR MANUFACTURING HOLLOW BRICKS, ISSUED TO THE PETITIONER.
- P3 : TRUE COPY OF THE SALE DEED NO.2178/07/2007 DTD.18.5.2007 OF THE SRO, SREEMOOLANAGARAM IN THE NAME OF THE 1ST PETITIONER.
- P4 : TRUE COPY OF THE APPLICATION DTD.29.5.2015 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT.
- P5 : TRUE COPY OF THE ORDER NO.K1-4938/2015/K.DIS. DTD.18.8.2015 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONERS.
- P6 : TRUE COPY OF THE LETTER NO.C8-10450/15 DTD.16.9.2015 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT.
- P7 : TRUE COPY FO THE LICENCE ISSUED BY THE SENIOR JOINT DIRECTOR OF FACTORIES AND BOILERS DTD.16.12.2007 SHOWING THE DATE OF REGISTRATION OF THE INDUSTRIAL UNIT OF THE PETITIONERS.
- P8 : TRUE COPY OF THE NOC DTD.2.11.1987 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD TO THE PREVIOUS OWNER OF NATIONAL GRANITES.
- P9 : TRUE COPY OF THE REPORT DTD.30.6.2015 ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, KALADY.
- P10: TRUE COPY OF THE REPORT DTD.1.7.2015 SUBMITTED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT.
- P11: TRUE COPY OF THE CERTIFICATE DTD.28.5.2015 ISSUED BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, KALADY TO THE PETITIONERS.
- P12: TRUE COPY OF THE REPRESENTATION DTD.17.9.2015 SUBMITTED BY THE PETITIONERS BEFORE THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 35547 of 2015

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Dated this the 22nd day of December, 2015

J U D G M E N T

The petitioner has approached this Court challenging the order of Sub Collector, Fort Kochi. By the above said order, the Additional Tahsildar, Aluva is directed to restore illegally converted land situated in Resurvey No.115/1, 115/1-2, 116/8 in violation of the Act 28 of 2008.

2. The petitioner's case is that this is a converted land much before the Act 28 of 2008. The petitioner approached the Local Level Monitoring Committee by Ext.P12 to correct the entry relating to the property.

3. In the counter, it is stated that the petitioner is the owner of the larger extent of the property and the land situated in Resurvey No.115/1, 115/1-2, 116/8 are recorded as 'Nilam' in the draft data bank. It is also stated that there are trees like Manjiyem, Coconut, Mahagony etc. In such a circumstances, this

Court is of the view that the Local Level Monitoring Committee shall conduct site inspection and find out whether the properties of the petitioner situated in Resurvey No.115/1, 115/1-2, 116/8 are erroneously included as 'Nilam' in the draft data bank or not. If it cannot be classified as 'Nilam' as on the date of enactment of the Act 28 of 2008, necessarily corresponding changes shall be effected in the draft data bank. In the event, the Local Level Monitoring Committee takes a decision to correct the entry as above, necessarily the order passed by the Sub Collector shall be revoked.

Therefore the following directions are issued.

i) The Local Level Monitoring Committee shall conduct an inspection and find out whether it can be classified as 'Nilam' as on the date of enactment of the Act 2008. This shall be done within two months from the date of receipt of the copy of this judgment.

ii) Till a decision is taken by the Local Level Monitoring Committee, status quo shall be maintained.

iii) If the Local Level Monitoring Committee allows

the request of the petitioner to correct the entry, necessarily the order impugned by the Sub Collector shall be revoked.

iv) However, if the Local Level Monitoring Committee refuses to correct the entry, the Sub Collector is free to implement the order in accordance with law.

The writ petition is disposed of, as above.

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A.MUHAMED MUSTAQUE, JUDGE