

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).No. 36479 of 2015 (H)

PETITIONER:

**DR. SHAHARBAN V,
D/O.KIZHAKKE PURAYIL RAMLABHI,
KONAYIL HOUSE, P.O.IRINAV,
(VIA) CHERUKUNNU, KANNUR - 670 301.**

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S):

- 1. THE STATE OF KERALA, REPRESENTED BY ITS
ADDITIONAL CHIEF SECRETARY(REVENUE),
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. DISTRICT COLLECTOR, KANNUR,
CIVIL STATION, KANNUR - 670001.**
- 3. THE LOCAL LEVEL MONITORING COMMITTEE,
CONSTITUTED U/S.5 OF THE KERALA CONSERVATION
OF PADDY LAND & WET LAND ACT, 2008,
KALLIASSERY GRAMA PANCHAYATH, KALLIASSERY,
KANNUR - 670 562. REPRESENTED BY ITS COVENOR,
AGRICULTURAL OFFICER, KRISHI BHAVAN, KALLIASSERY.**
- 4. THE KALLIASSERY GRAMA PANCHAYATH,
KALLIASSERY, KANNUR - 670 562,
REPRESENTED BY ITS SECRETARY.**

R1 TO R3 BY SPECIAL GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 36479 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P-1: TRUE COPY OF THE SETTLEMENT DEED NO.866 OF 2002
 DATED 23.4.2002 OF THE SRO, MANGAD, KANNUR.**
- EXT.P-2: TRUE COPY OF THE LAND TAX RECEIPT NO.3072329 DATED 8.6.2015
 ISSUED BY THE VILLAGE OFFICER, KALLIASSERY.**
- EXT.P-3: TRUE PHOTOGRAPH OF THE LAND COVERED BY EXT.P1 DEED.**
- EXT.P-3(A): TRUE PHOTOGRAPH OF THE LAND COVERED BY EXT.P1 DEED.**
- EXT.P-3(B): TRUE PHOTOGRAPH OF THE LAND COVERED BY EXT.P1 DEED.**
- EXT.P-3(C): TRUE PHOTOGRAPH OF THE LAND COVERED BY EXT.P1 DEED.**
- EXT.P-4: TRUE COPY OF THE NOTIFICATION NO.M3-8017/2010 DATED 1.12.2010
 ISSUED BY THE 4TH RESPONDENT (RELEVANT PAGES).**
- EXT.P-5: TRUE COPY OF THE REPRESENTATION DATED 27.11.2015 SUBMITTED
 BY THE PETITIONER TO THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.Muhamed Mustaque, J.

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W.P.(C)No.36479 of 2015

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Dated this the 21st day of December, 2015.

JUDGMENT

1. Petitioner is the owner of the landed property comprised in R.S.No.56/1 of Kalliasseri village, Kannur Taluk in Kannur District. The said land is included as a wet land in the Data Bank prepared under Act 28 of 2008. The Data Bank has been notified.
2. Based on the direction of this court, the Agricultural Officer has filed a report. The relevant portion of the report, paragraph 4, reads as follows:

“On inspection and enquiry, it is understood that the above said land is neither a paddy land nor a wet land as defined in Act 28 of 2008 and the entry in the Data Bank as 'wetland' is a mistake. Since the Data Bank is finally notified in the Gazette, the Local Level Monitoring Committee has no power to correct the entry in the Data

Bank.”

3. In the light of the above statement, this court is of the view that, the petitioner's property has to be declared as converted land and not wet land as has been entered in the Data Bank under Act 28 of 2008. Therefore, it is ordered that rigour of Act 28 of 2008 would not apply to the petitioner's land.

4. As seen from the records, originally the petitioner's land was a wet land. Therefore Kerala Land Utilization Order would not apply. Further the amended provision of Section 3A of Act 28 of 2008 also would not apply as it is not unauthorised reclamation of paddy land. Thus the petitioner is free to utilize the land in accordance with law as a converted wet land before the enactment of Act 28 of 2008.

Writ petition is disposed of as above.

Muhamed Mustaque, Judge.

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