

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 7TH DAY OF DECEMBER 2015/16TH AGRAHAYANA, 1937

WP(C).No. 36888 of 2015 (I)

PETITIONER(S) :

**E.N.NARAYANAN NAIR, AGED 75 YEARS,
S/O.RAMAN NAIR, PARVATHI HOUSE, TMC XIV-6,
TRICHAMBARAM, TALIPARAMBA AMSOM, TALIPARAMBA P.O.,
TALIPARAMBA TALUK.**

**BY SRI.M.RAMESH CHANDER (SENIOR ADVOCATE)
ADVS. SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE**

RESPONDENT(S) :

- 1. STATE OF KERALA, REPRESENTED BUILDING,
THIRUVANANTHAPURAM- 695 033.**
- 2. DISTRICT COLLECTOR,
KANNUR- 670 001.**
- 3. ADDITIONAL SUB COLLECTOR,
THALASSERY- 670 101.**
- 4. TAHSILDAR,
TALIPARAMBA, KANNUR- 670 141.**

BY SPL.GOVERNMENT PLEADER SRI.P.K.SOYUZ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 36888 of 2015 (I)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT P1: PHOTOSTAT COPY OF THE ORDER ISSUED BY TAHSILDAR
BEARING K-N-C4/2013/H4(12484/13).**

**EXHIBIT P2: PHOTOSTAT COPY OF THE ORDER ISSUED BY 3RD RESPONDENT
DATED 07.04.2015 BEARING NO.L-12090/14.**

**EXHIBIT P3: A PHOTOSTAT COPY OF THE ORDER ISSUED BY
1ST RESPONDENT BEARING NO.L2-24126/2013 DATED 07.10.2015.**

**EXHIBIT P4: THE PHOTOSTAT COPY OF THE APPEAL PETITION FILED BY
THE PETITIONER (THOUGH WRONGLY DESCRIBED AS APPEAL)
DATED 26.10.2015.**

**EXHIBIT P5: A PHOTOSTAT COPY OF THE ORDER ISSUED BY
1ST RESPONDENT BEARING NO.L.R.(K)4-43973/15
DATED 20.11.2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 36888 of 2015

Dated this the 07th day of December, 2015

JUDGMENT

The petitioner, aggrieved by an order passed by the District Collector in a revision filed, challenging the orders of Tahsildar as well as Revenue Divisional Officer under the Kerala Land Conservancy Act, has approached the Land Revenue Commissioner. This has been returned by citing that there is no provision to entertain a further revision by the Land Revenue Commissioner. Adverting to Section 16(3) and (4), the Land Revenue Commissioner has refused to entertain the revision as there is no power for entertaining second revision.

2. As seen from the provision, though there is a remedy before the Commissioner of Land Revenue as against an order passed by the District Collector by exercising the power of Appellate Authority, there is no corresponding

provision to entertain any further revision as against the order passed by the District Collector in exercise of power of revision. This is apparently on account of the fact that, delegation of the power of the District Collector in terms of Section 15 when entrusted to the Tahsildar, the hierarchical remedy in terms of Section 16, to challenge primary order is based on power given to the Revenue Divisional Officer as primary authority to initiate action under the Act. But, when the power is delegated to the Tahsildar, a person aggrieved may not have a right to approach the Land Revenue Commissioner as a revisional authority as same power could be exercised by the District Collector. The Land Revenue Commissioner thus justified in rejecting the second revision as there is no specific provision.

3. However, taking note of the fact that, the Government have the power to entertain any challenge regarding the order passed under the Kerala Land Conservancy Act, this Court is of the view that the petitioner has a remedy before the Government as against the order passed by the District Collector.

In that view of the matter, the writ petition is disposed of with the following directions :

The petitioner shall approach the Government of Kerala within one month, challenging the order under the Kerala Land Conservancy Act. If any such challenge is made before the Government, it shall be considered within a period of four months after giving notice to the petitioner. Till a decision is taken by the Government, status quo shall be maintained. It is made clear that if the petitioner fails to move the Government within the time granted by this Court, benefit of the judgment will not be available to the petitioner.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

bpr