

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 37227 of 2015 (C)

PETITIONER:

**V.JOSEPH, (VARGHESE JOSEPH), AGED 65,
S/O.LATE MATHUNNY, OMASERICHIRAYIL VEEDU,
PENNUKKARA P.O., CHENGANNOOR TALUK,
ALA VILLAGE, ALAPPUZHA DISTRICT - 689 520.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE
SRI.JEPH JOSEPH
SRI.E.RADHAKRISHNAN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF AGRICULTURE (NCI),
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. PRINCIPAL SECRETARY AND AGRICULTURAL
PRODUCTION COMMISSIONER,
DEPARTMENT OF AGRICULTURE (NCI)
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 3. DEPUTY SECRETARY,
DEPARTMENT OF AGRICULTURE (NCI)
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 4. THE DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA - 688 001.**
- 5. THE REVENUE DIVISIONAL OFFICER,
CHENGANNOOR, ALAPPUZHA DISTRICT - 689 121.**
- 6. THE VILLAGE OFFICER,
ALA VILLAGE, ALAPPUZHA DISTRICT - 689 126.**

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7. THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, ALA, CHENGANNOOR,
ALAPPUZHA DISTRICT - 689 121.
8. LOCAL LEVEL MONITORING COMMITTEE,
ALA GRAMA PANCHAYAT,
REPRESENTED BY ITS CHAIRMAN,
ALA GRAMA PANCHAYAT OFFICE,
PENNUKKARA P.O., CHENGANOOR,
ALAPPUZHA DISTRICT - 689 520.
9. JOHN ISSAC, VELUTHERIL HOUSE,
PENNUKKARA P.O., ALA VILLAGE,
CHENGANOOR, ALAPPUZHA DISTRICT - 689 520.

R1 TO R7 BY GOVERNMENT PLEADER SMT.C.K.SHERIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: COPY OF LAND TAX RECEIPT.
- P2: PHOTOGRAPHS WHICH SHOWS THE PROPERTY OF THE PETITIONER.
- P3: COPY OF OBJECTION DATED 8/10/2014 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.
- P4: COPY OF ORDER NO.C8.26295/14 DATED 6/11/2014 PASSED BY THE 4TH RESPONDENT.
- P5: COPY OF NOTICE NO.B.1997/12 DATED 12/2014 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- P6: COPY OF JUDGMENT DATED 18/12/2014 PASSED BY THIS HONOURABLE COURT IN WPC NO.34370/2014.
- P7: COPY OF REVISION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT UNDER SECTION 28 OF THE KERALA CONSERVATION OF PADDY AND WET LAND ACT.
- P8: COPY OF OBJECTION FILED BY THE 9TH RESPONDENT.
- P9: COPY OF PROHIBITORY ORDER DATED 1/4/2014 ISSUED BY THE 6TH RESPONDENT.
- P10: COPY OF MAHAZAR PREPARED BY THE 6TH RESPONDENT.
- P11: COPY OF THE NOTICE DATED 5/2/2015 FROM THE UNDER SECRETARY REGARDING THE HEARING.
- P12: COPY OF ARGUMENT NOTE.
- P13: COPY OF G.O. NO.1886/2015/AGRICULTURE DATED 11/11/2015 PASSED BY THE SECOND RESPONDENT.
- P14: COPY OF APPLICATION DATED 28/11/2015 BEFORE THE EIGHTH RESPONDENT.
- P15: RECEIPT NUMBER 3092/15 DATED 28/11/2015 ISSUED FROM THE PANCHAYAT OFFICE AT THE TIME OF SUBMISSION OF EXHIBIT P14.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C).No.37227/2015

Dated this the 16th Day of December, 2015

J U D G M E N T

The petitioner, aggrieved by the order passed under the Act 28 of 2008 had approached the Revisional Authority. The petitioner's revision has been rejected by Exhibit P13. Petitioner submits that though the revision was heard by the third respondent, an order has been passed by the second respondent. The petitioner challenges the above order.

2. It is to be noted that the petitioner's land is included as wet land in the draft data bank and even if an order has been passed by any authority without hearing the petitioner, the petitioner cannot improve his case as the entry relating to the property is already classified in the draft data bank. The petitioner has a case that it is a converted land and the neighbouring properties are also been converted. The petitioner also submits that it is unfit for cultivation.

3. This Court is of the view that the petitioner has to approach the Local Level Monitoring Committee in this matter. It appears that the petitioner

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has approached the Local Level Monitoring Committee by Exhibit-P14 and Exhibit P15 is the acknowledgement. Therefore, the Local Level Monitoring Committee shall find out whether the aforesaid land can be classified as paddy land or wetland as on the date of enactment of the Act 28 of 2008. If it cannot be classified as wetland, necessary corrections shall be effected in the draft data bank and the impugned order shall be revoked. However, if the entry relating to the land cannot be corrected, the respondents are free to implement the order now impugned before this Court. Therefore, an appropriate decision shall be taken within two months after hearing the petitioner. Till a decision is taken by the Local Level Monitoring Committee, *status quo* shall be maintained.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE