

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**WEDNESDAY, THE 9TH DAY OF DECEMBER 2015/18TH AGRAHAYANA, 1937**

**WP(C).No. 37274 of 2015 (H)**  
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**PETITIONER(S):**  
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1. T. USMAN, AGED 46 YEARS,  
S/O LATE KUNHIMUHAMMED HAJI,  
RESIDING AT THIRUNILATH HOUSE, PANIKKAR PADI,  
KUTTIPALA P.O., MALAPPURAM-676 501.
2. P.PATHUMOL, AGED 55 YEARS,  
W/O HAMZA HAJI, RESIDING AT NAZEEB MANZIL,  
PANIKKAR PADI, KUTTIPALA P.O., MALAPPURAM-676 501.
3. A.K.PAREED, AGED 64 YEARS,  
S/O KOCHAHAMMED, KUTTOOR NORTH P.O., (VIA)  
A.R. NAGAR, MALAPPURAM-676 305.
4. PKUNHALAN, AGED 59 YEARS,S/O KUNHALAVI,  
PANGINIKKATTIL HOUSE, RANDATHANI (P.O).,  
MALAPPURAM-676 510.

**BY ADV. SMT.C.G.PREETHA**

**RESPONDENT(S):**  
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1. THE DISTRICT COLLECTOR,  
CIVIL STATION, PALACE ROAD, ALAPPUZHA-688 001.
2. THE SUB COLLECTOR,  
CIVIL STATION, PALACE ROAD, ALAPPUZHA-688 001.
3. TAHASILDAR,  
AMBALAPUZHA TALUK, ALAPPUZHA-688 561.
4. VILLAGE OFFICER,  
MANNANCHERRY, AMBALAPUZHA TALUK,  
ALAPPUZHA-688 561.
5. THE AGRICULTURAL OFFICER, MANNANCHERRY,  
AMBALAPUZHA TALUK, ALAPPUZHA-688 561.

**R1 TO R5 BY SPL.GOVERNMENT PLEADER SRI.P.K.SOYUZ**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 09-12-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**WP(C).No. 37274 of 2015 (H)**  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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**EXHIBIT P1: A TRUE COPY OF THE LETTER DATED 30.5.2013 ISSUED BY THE  
ADDITIONAL TAHSILDAR, AMBALAPUZHA ADDRESSED TO THE RDO,  
ALAPUZHA.**

**EXHIBIT P2: A TRUE COPY OF THE APPLICATION SUBMITTED BY THE 4TH  
PETITIONER DATED 2.7.2015.**

**EXHIBIT P3: A TRUE COPY OF THE JUDGMENT DATED 16.7.2015 IN WPC NO.20662  
OF 2015 PASSED BY THIS HON'BLE COURT.**

**EXHIBIT P4: A TRUE COPY OF THE NOTICE DATED 25.9.2015 FOR HEARING ON  
12.10.2015.**

**EXHIBIT P5: A TRUE COPY OF THE ORDER DATED 13.10.2015 PASSED BY THE 1ST  
RESPONDENT.**

**EXHIBIT P6: A TRUE COPY OF THE ORDER DATED 25.11.2015 PASSED BY THE 2ND  
RESPONDENT.**

**RESPONDENT(S)' EXHIBITS:**  
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**NIL**

**/TRUE COPY/**

**P.A.TO JUDGE**

**sts**

**A.MUHAMED MUSTAQUE, J.**

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**W.P.(C) No.37274 of 2015**

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**Dated this the 9<sup>th</sup> day of December, 2015**

**JUDGMENT**

The petitioner's application under Clause 6 of the Kerala Land Utilisation Order (for short, the 'KLU Order') has been considered pursuant to the directions of this Court by the Revenue Divisional Officer, Alappuzha. The petitioner was granted permission to utilize the land. However, the permission was restricted to utilize the land for the purpose of cultivating other food crops. The condition imposed in the order is under challenge before this Court.

2. The KLU Order is a subordinate regulation issued in terms of the Essential Commodities Act. The very object of the KLU Order is to secure production of foodcrops referable under the KLU Order. The Collector under Clause 6 of the KLU Order has the power to permit the holder of the land to utilize the land for other

purposes, if such land is not required for cultivating the food crops, which were in cultivation in terms of Clause 7 of the KLU Order. The Collector has the only power to command the holder of the land to cultivate food crops which were in cultivation. If the paddy was in cultivation, the Collector can direct cultivation of paddy and not other food crops. Therefore, after the enactment of the Kerala Conservation of Paddy Land and Wet Land Act, 2008, if the land is not fit for paddy, the Collector can no longer direct the holder of the land to cultivate the paddy as this land is unfit for cultivating the paddy. This land is included as converted land in the draft data bank. In such scenario, the Collector cannot command the holder of land to cultivate any other foodcrops in terms of Clause 7 of the KLU Order. It is to be noted that the enabling provision in terms of the KLU Order can be exercised for the purpose of which such power is vested and not for any other purposes. Since the land has

become unfit to utilize for paddy cultivation, necessarily, the Collector has to grant permission in terms of Clause 6 of the KLU Order to permit the petitioner to utilize the land for other purposes.

In that view of the matter, the condition imposed is set aside. The petitioner is free to utilize the land for any other purposes in accordance with law including construction of residential as well as commercial buildings. However, to safeguard the interest of neighbouring owners, appropriate condition can be imposed by the Sub Collector, if they propose to impose any condition. Such condition shall be imposed within a period of four weeks 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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