IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

WEDNESDAY, THE 16TH DAY OF DECEMBER 2020 / 25TH AGRAHAYANA, 1942

WP(C).No.26007 OF 2020(A)

PETITIONER:

AFSAL.M.M
AGED 40 YEARS
S/O. M.K MUHAMMED, MULLATHIL HOUSE, KAVILPAD P.O,
PALAKKAD DISTRICT 678 012

BY ADVS.
SRI.JACOB SEBASTIAN
SRI.K.V.WINSTON
SMT.ANU JACOB

RESPONDENTS:

1 **THE LOCAL LEVEL MONITORING COMMITTEE**
FOR THE PALAKKAD MUNICIPALITY CONSTITUTED UNDER THE
CONSERVATION OF PADDY LAND AND WETLAND ACT, 2008,
REPRESENTED BY ITS CONVENER,
THE AGRICULTURAL OFFICER, PALAKKAD MUNICIPALITY, PIN
678 001

2 **THE REVENUE DIVISIONAL OFFICER,**
OFFICE OF THE REVENUE DIVISIONAL OFFICER, PALAKKAD,
PIN 678 001

3 **THE ADDITIONAL TAHSILDAR,**
TALUK OFFICE, CIVIL STATION, PALAKKAD 678 001

4 **THE VILLAGE OFFICER,**
PALAKKAD-1 VILLAGE, PALAKKAD 1 VILLAGE OFFICE,
PALAKKAD 678 001

SRI. K.J.MANURAJ - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) No.26007 of 2020

J U D G M E N T

Petitioner holds an item of land measuring 0.0698 hectors in Palakkad-1 Village. Although the land of the petitioner is shown in the revenue records as paddy land, the same was lying as a dry land when the Kerala Conservation of Paddy Land and Wetland Act, 2008 (the Act) came into force. Earlier, the predecessor of the petitioner had obtained permission from the competent authority under the Kerala Land Utilization Order for making use of the larger area including the land which is now held by the petitioner, for other purposes. Ext.P3 is the order obtained by the predecessor of the petitioner in this regard. The petitioner purchased the land thereafter. On 20.11.2020, the petitioner has preferred an application before the third respondent for reassessing the land as dry land under the Kerala Land Tax Act and also for making appropriate corrections in the revenue records pertaining to the classification of the land. Ext.P5 is the application preferred by the petitioner for the said purpose. The grievance of the petitioner concerns the delay on the part of the first respondent in taking a decision on Ext.P5 application.

2. Heard the learned counsel for the petitioner as also the learned Government Pleader.

3. The learned counsel for the petitioner points out that Ext.P5 application is not being disposed of by the third respondent as he maintains the stand that the petitioner has to obtain orders under Section 27A of the Act after remitting the prescribed fee, for the relief claimed in Ext.P5 application.

4. In **Renji K. Paul v. Revenue Divisional Officer**, 2019 (2) KLT 262, this court held that if the holder of a land which is not included in the data bank prepared under the Act prefers an application for permission to make use of the land for other purposes under the Land Utilization Order before the coming into force of Act 29 of 2018, in terms of which Sections 27A and 27C were introduced to the Act, the said provisions cannot be pressed into service against such a land. In the case on hand, the land of the petitioner is covered by an order under the Land Utilization Order issued long before Act 29 of 2018. In other words, the provisions of Act 29 of 2018 cannot be pressed into service in respect of the land of the petitioner. Further, in **Iype Varghese v. Revenue Divisional Officer,** 2020 (5) KLT 403, this Court held that where statutory permission for change of user of land has been obtained for conversion of a paddy land to a garden

land in terms of the provisions contained in the Kerala Land Utilisation Order, then it is the obligation of the competent authority under the Land Tax Act to make a fresh assessment of the land so as to collect the higher land tax for such converted land and to issue appropriate directions to the officers concerned to make additional entries in the Basic Tax Register so as to reflect the nature of the land as garden land/Purayidam in the said Register.

In the circumstances, the writ petition is disposed of directing the third respondent to reassess the land of the petitioner, treating the same as Purayidam/dry land and issue appropriate orders directing the officers concerned to change the classification of the land in the Basic Tax Register and other revenue records as Purayidam/dry land. This shall be done within two months from the date of production of a copy of this judgment after satisfying that the land of the petitioner referred to in Ext.P5 application is one covered by Ext.P3 order.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE POSSESSION CEERTIFICATE RELATING TO THE PLOT DATED NOVEMBER 14,2020
EXHIBIT P2	A TRUE COPY OF REGISTERED SALE DEED NUMBER 754/2019 OF THE SRO, OLAVAKKODE
EXHIBIT P3	A TRUE COPY OF THE ORDER DATED JANUARY 27,1987 ISSUED BY THE SECOND RESPONDENT IN THE NAME OF LATE MADHAVA MOOTHAN (PREDECESSOR IN INTEREST OF THE PETITIONER)
EXHIBIT P4	A TRUE COPY OF THE ORDER DATED JUNE 18, 2020 ISSUED BY THE SECOND RESPONDENT
EXHIBIT P5	A TRUE COPY OF THE APPLICATION DATED NOVEMBER 20,2020 SUBMITTED BY THE PETITIONER
EXHIBIT P6	A TRUE COPY OF THE JUDGMENT DATED JUNE 25,2018 IN WPC 16536/2018 OF THIS HON'BLE COURT.