IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 03RD DAY OF DECEMBER 2020 / 12TH AGRAHAYANA, 1942

WP(C).No.26879 OF 2020(H)

PETITIONER/S:

SAJEE VARGHESE,
S/O. LATE N. K. VARGHESE,
NJALIYATH HOUSE,
KOTTAYATHUPARA P.O.,
THIRUVANKULAM P. O.,
ERNAKULAM DISTRICT - 682 305.

BY ADV. SRI.JELSON J.EDAMPADAM

RESPONDENT/S:

1 **STATE OF KERALA**
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

2 **REVENUE DIVISIONAL OFFICER, FORT KOCHI,**
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
FIRST FLOOR, KB JACOB RD.,
FORT KOCHI, KOCHI - 682 001.

3 **THE TAHSILDAR (LR)**
TALUK OFFICE, KANAYANNOOR, ERNAKULAM P. O.,
ERNAKULAM DISTRICT - 682 011.

4 **THE VILLAGE OFFICER,**
KUREEKKAD VILLAGE,
ERNAKULAM DIST- 683 594.

SRI.K.J. MANURAJ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) No.26879 of 2020

J U D G M E N T

The petitioner holds an item of land measuring 0.05120 Hectors in Kureekad Village. Although the land of the petitioner is shown in the revenue records as 'Nilam', the same was lying as a dry land when the Kerala Conservation of Paddy Land and Wetland Act, 2008 (the Act) came into force. Since the land of the petitioner was not a cultivable paddy land when the above statute was introduced, the petitioner preferred an application 27.11.2017 under Clause 6(2) of the Kerala Land Utilization Order for permission to make use of the land for other purposes. On 14.01.2020, in terms of Ext.P3 order, the second respondent has granted the permission sought for by the petitioner subject to the condition that the said order cannot be treated as a permission for change of classification of the land in the Basic Tax Register. Despite the condition aforesaid, on the basis of Ext.P3 order, the petitioner preferred Ext.P4 application before the third respondent for reassessing the land as a 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. The case of the petitioner is that the third respondent is not considering Ext.P4 application in the light of the condition referred to in Ext.P3 order. The petitioner, therefore, seeks appropriate directions in this regard in the writ petition.

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

3. 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 Kerala Land Utilisation Order, then it is the obligation of the competent authority under the Kerala 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 light of the said judgment, the condition in Ext.P3 order that the same cannot be treated as a permission for change of classification of the land in the Basic Tax Register is unsustainable in law.

In the result, the writ petition is allowed and Ext.P3 order of the second respondent to the extent it provides that the classification of the land shall not be changed on the strength of the said order is quashed. The third respondent is directed to reassess the land of the petitioner treating the same as 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 dry land. This shall be done within two months from the date of production of a copy of this judgment.

Sd/-

P.B.SURESH KUMAR, JUDGE.

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APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE JUDGMENT DATED 16.01.2018 IN WP(C) NO.40472/2017.**
EXHIBIT P2	**TRUE COPY OF THE ORDER NO.C.T.K.A.L.L.M.C.III-18/19 DATED 10.10.2018 OF L.L.M.C. CHOTTANIKKARA.**
EXHIBIT P3	**TRUE COPY OF THE ORDER NO.K2-3068/19K.DIS DATED 14.01.2020 UNDER CLAUSE 6 OF THE 2ND RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION DATED 11.03.2020 ALONG WITH FORM A.**
EXHIBIT P5	**TRUE COPY OF NOTICE NO.H3/7299/2020 DATED 05.10.2020 OF THE 3RD RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE WRITTEN SUBMISSIONS FILED BEFORE THE 3RD RESPONDENT.**