IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

WP(C) NO. 37119 OF 2022

PETITIONER:

MUHAMMED ASHARAF K.K.,
AGED 59 YEARS
S/O. ABDURAHIMAN MUSLIYAR,
KALLANKADAVAN HOUSE, VILAYIL, PARAPPOOR,
MALAPPURAM DISTRICT, PIN - 673639

BY ADVS.
BABU S. NAIR
SMITHA BABU

RESPONDENTS:

1 **THE REVENUE DIVISIONAL OFFICER ,**
REVENUE DIVISIONAL OFFICE, PERINTHALMANNA,
MALAPPURAM DISTRICT, PIN - 679322

2 **THE VAZHAKKAD GRAMA PANCHAYATH,**
REPRESENTED BY ITS SECRETARY, VAZHAKKAD,
MALAPPURAM DISTRICT, PIN - 673640

BY ADVS.

SAYED MANSOOR BAFAKHY THANGAL

SMT.PREETHA K.K., SR.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C.P., J.

WP(C)No.37119 of 2022

Dated this the 1st day of August, 2024

JUDGMENT

he application preferred by the petitioner for regularisation of the construction effected by him was rejected by the Panchayat concerned by order dated 2.9.2022 on the ground that the petitioner's property is shown as 'nilam' in the revenue records. It is the petitioner's case that he had obtained orders under clause 6(2) of the Kerala Land Utilization Order, 1967 dated 8.8.2002. However, the petitioner did not have a copy of the order and approached the office of the first respondent to get the same. He did not obtain the same even from the office of the first respondent to produce it before the Panchayat authorities.

2. A counter affidavit has been filed on behalf of the first respondent wherein it is stated as follows:-.

"2. It is submitted that, a report was obtained from Village Officer, Vazhakkad to ascertain the correlation between the land specified in the KLU Order and the land covered in the above writ petition. Additionally, an attested copy of the Basic Tax Register (BTR) relevant to Sy.No.156/10 of Vazhakkad village was procured for examination. Upon a thorough examination of both the report from the Village Officer and the attested BTR copy it has come to our attention that Sy.No.156/10 contains a total land area of 59.9 cents. This confirms that the land for which the KLU Order bearing number KDIs/3766/2002/M was issued by this office corresponds precisely with the land that is the subject of the above writ petition.

3. It is submitted that, hence, it is now conclusively established that the property of the petitioner, as encompassed in the writ petition, has indeed been accorded a KLU order document under Order No.KDIs/3766/2002/M. However, an inadvertent error occurred in the registration deed, wherein the order No.K Dis/2766/2002/M was incorrectly mentioned."

3. A reading of the above shows that the petitioner was indeed granted an order under the provisions of the KLU Order pertaining to 59.9 Cents in Survey No.156/10. In view of the above, it will be open to the petitioner to make an application under Form A under Section 6(3) of the Kerala Land Tax Act, 1961 r/w 1972 Rules. If the petitioner

makes an application before the Tahsildar (LR) concerned within two weeks from today, the Tahsildar concerned will pass appropriate orders on the same within a month thereafter, from the date of receipt of the application, after ensuring the extent and identity of the property in question from the office of the first respondent and based on the statements in the counter affidavit noted above. The petitioner, based on the counter now filed, can also request the first respondent to give him an authorised copy of the KLU Order which he may produce along with the Form A application. Based on the orders to be passed on Form A as aforesaid, the Panchayat will reconsider the application of the petitioner, if the application is otherwise in order, within four weeks from the date of receipt of a copy of the order to be passed by the Tahsildar (LR) concerned.

The writ petition is disposed of as above.

Sd/- MOHAMMED NIAS C.P.

JUDGE

dlk/2.8.2024

APPENDIX OF WP(C) 37119/2022

PETITIONER'S EXHIBITS

EXHIBIT P1	**A TRUE COPY OF THE ASSIGNMENT DEED OF THE PROPERTIES DATED, 6-1-2010 AS NO.30/2010 OF THE S.R.O., VAZHAKKAD**
EXHIBIT P2	**A TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT DATED, 2-9-2022**
EXHIBIT P3	**TRUE COPY OF THE REPLY GIVEN BY THE AGRICULTURAL OFFICER, KRISHI BHAVAN, VAZHAKKAD DATED, 20-10-2021 ALONG WITH THE LAND IDENTIFICATION DETAILS**