IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 29TH DAY OF JULY 2024 / 7TH SRAVANA, 1946

WP(C) NO. 37975 OF 2023

PETITIONER:

SHIYAS.S.,
AGED 28 YEARS
S/O.SHAHUL HAMEED, JASEENA MANZIL, KALLATHANI,
MELARCODE, CHITTILANCHERI PO, PALAKKAD DISTRICT,
PIN - 678704

BY ADVS.
K.MOHANAKANNAN
THUSHARA D.S.

RESPONDENTS:

1 **STATE OF KERALA,**
REPRESENTED BY ITS SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN – 695001

2 **THE COMMISSIONER OF LAND REVENUE,**
OFFICE OF THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDING, MUSEUM ROAD,
OPPOSITE ZOO, VIKHAS BHAVAN P.O, THIRUVANANTHAPURAM,
PIN – 695033

3 **THE DISTRICT COLLECTOR,**
PALAKKAD DISTRICT COLLECTORATE, KENATHUPARAMBU,
KUNATHURMEDU, PALAKKAD DISTRICT, PIN – 678013

4 **THE SUB COLLECTOR,**
RDO OFFICE, OTTAPALAM,
PALAKKAD DISTRICT, PIN – 679101

5 **LOCAL LEVEL MONITORING COMMITTEE,**
REPRESENTED BY ITS CONVENER,
AGRICULTURAL OFFICER, KRISHI BHAVAN,
MELARCODE, UNGINCHUVADU-MELARCODE ROAD,
MELARCODE, PALAKKAD DISTRICT, PIN – 678703

6 **THE TAHSILDAR (LR),**
ALATHUR TALUK OFFICE, ALATHUR,
PALAKKAD DISTRICT, PIN - 678541

BY SMT. PREETHA K.K., SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioner challenges Ext.P4, an order passed in a Form 5 application filed by him under the Kerala Conservation of Paddy Land and Wetland Act and Rules, 2008 (for short, the Act and the Rules). A reading of Ext. P4 shows that the same is a non-speaking order without consideration of any of the relevant aspects.

2. Going by the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008, "paddy land" is defined as all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy cultivation but uncultivated and left fallow, and includes its allied constructions like bunds, drainage channels, ponds and canals. As per Sec.5(4), the Local Level Monitoring Committee have the power to prepare the data bank with the details of the cultivable paddy land and wetland, within the area of jurisdiction of the Committee, with the help of the map prepared or to be prepared by the State Land Use Board or Centre-State Science and Technology Institutions on the basis of satellite pictures by incorporating the survey numbers and extent in the data-bank and get it notified by the concerned Panchayat/Municipality/Corporation, in such manner. A reading of the above would show that what is to be included in a data bank are the details of the cultivable paddy land

and wetland. Of course, taking note of the definition of paddy land as mentioned above, such an exercise to find out whether a property is a paddy land or whether it is cultivable or non-cultivable has to be ascertained taking into account the natural features of the land whether it is fit for cultivation or not. The most relevant aspect therefore is to find whether the land is fit for paddy cultivation.

3. There is no finding at all in the impugned order that holds whether the land in question is fit for paddy cultivation or not. Given the above, I have no hesitation to quash Ext.P4 and direct the fourth respondent, the Sub Collector to re-consider the Form 5 application submitted by the petitioner strictly in terms of the Act and the Rules and in the light of the KSREC report which shall be made available by the petitioner. This shall be done within three months from the date of receipt of the KSREC report made available by the petitioner.

The writ petition is allowed as above.

SD/-

MOHAMMED NIAS C.P.
JUDGE

DCS

APPENDIX OF WP(C) 37975/2023

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF THE SALE DEED NO. 1996/2022 DATED 06/08/2022**
Exhibit P2	**TRUE COPY OF THE POSSESSION CERTIFICATE DATED 21/2/2023**
Exhibit P3	**TRUE COPY OF THE PROCEEDINGS OF THE DISTRICT LEVEL AUTHORIZED COMMITTEE, NO. T.A. (7)1531/18 DATED 01/07/2019**
Exhibit P4	**TRUE COPY OF THE PROCEEDINGS OF THE 4TH RESPONDENT, NO. 4392/2023 DATED 08/10/2023**
Exhibit P5	**TRUE COPY OF THE PHOTOGRAPHS OF THE SITE I**