



2025:KER:21331

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

WEDNESDAY, THE 12TH DAY OF MARCH 2025 / 21ST PHALGUNA, 1946

WP(C) NO. 20765 OF 2023

PETITIONER/S:

STELLA KURIAN,
AGED 49 YEARS
W/O.CYRIAC MATHEW, H. NO. 39, MUNDATHANATHU
HOUSE, VELIYANNOOR P.O., KOTTAYAM, PIN - 686634

BY ADVS.
SHAKTHI PRAKASH
MUHASIN K.M.
SUKANYA S.

RESPONDENT/S:

- 1 THE DISTRICT COLLECTOR,
COLLECTORATE, KOTTAYAM - KUMILY ROAD, KOTTAYAM,
PIN - 686002
- 2 THE REVENUE DIVISIONAL OFFICER,
PALA REVENUE DIVISIONAL OFFICE, MINI CIVIL
STATION, PALA BYPASS ROAD, PALA, KOTTAYAM, PIN -
686575
- 3 THE TAHSILDAR,
MEENACHIL TALUK OFFICE, CIVIL STATION, GROUND
FLOOR, PALA RAMAPURAM ROAD, PALA, KOTTAYAM, PIN -
686575
- 4 THE VILLAGE OFFICER,
VELIYANNOOR VILLAGE OFFICE, AREKKARA,
VELIYANNOOR, KOTTAYAM, PIN - 686634



- 5 THE AGRICULTURE OFFICER,
VELIYANNOOR KRISHI BHAVAN, POOVAKULAM KARAMALA
ROAD, VELIYANNOOR, KOTTAYAM, PIN - 686662
- 6 THE DIRECTOR,
KERALA STATE REMOTE SENSING AND ENVIRONMENT
CENTRE, VIKAS BHAVAN, THIRUVANANTHAPURAM, PIN -
695033

OTHER PRESENT:

Smt.Preetha.K.K, Sr.G.P

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 12.03.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner, who is the owner of the property having an extent of 30.97 Ares comprised in Survey No.425/6-1 in Block No.1 of Veliyannoor Village in Meenachil Taluk, has approached this Court seeking the following reliefs:

- i. Issue a writ of certiorari calling for the records leading to Ext P3 order and quash the same.
- ii. Issue a writ of mandamus or any other writ, order or direction directing the 2nd respondent to reconsider Ext P2 application and pass orders afresh after obtaining a report from the 6th respondent, KSREC with regard to the nature of the property as on 2008.
- iii. To issue a writ of mandamus directing the 6th respondent to file a report before the 2nd and 5th respondent with regard to nature and lie of the petitioner's property in 2008.
- iv. To dispense with the filing of translation of vernacular documents.
- v. To issue such other writ, order or direction as this Honourable Court may deem fit and proper in the circumstances of the case."

2. The grievance of the petitioner is that, the application submitted by the petitioner to remove the property of the petitioner from the Data Bank notified under the Kerala



Conservation of Paddy Land and Wetland Act, 2008 in Form 5 as per Ext.P2, was rejected as per Ext.P3 order dated 05.06.2023, by a nonspeaking order without any reference to the contentions raised by the petitioner and even without stating the reasons for such rejection. The specific case of the petitioner is that the property of the petitioner stood reclaimed even prior to the enactment of the Kerala Conservation of Paddy and Wetland Act, 2008 (hereinafter called "The Paddy Land Act"), and the surrounding properties are also reclaimed lands. The said factual aspect was not taken into account and a nonspeaking order was passed as per Ext.P3, rejecting the application. Besides, it was also contended that, the scientific data in the nature of report from the Kerala State Remote Sensing and Environment Centre (KSREC) in the form of satellite images showing the status of the property prior to the enactment of the Paddy Land Act, was also not obtained. This writ petition was submitted in such circumstances.

3. After hearing the learned counsel for the petitioner, the learned Government Pleader and perusing Ext.P3 order



impugned in this case, I am of the view that, an interference is required.

4. As rightly pointed out by the learned counsel for the petitioner, Ext.P3 order does not contain any reasons on which the application of the petitioner has been rejected. Moreover, in **Arthasasthra Ventures (India) LLP v. State of Kerala** [2022 (7) KHC 591], this Court laid down principles relating to the procedure and the materials to be considered while deciding the application on Form-5. In paragraph No.8 the following observations are made by this Court.

“8.This Court is of the view that the Revenue Divisional Officer is not justified in taking a decision on merits on the application submitted by the petitioner in Form-5. The most relevant aspect while considering Form-5 application is whether the land in question was a paddy land or a wetland when the Act, 2008 came into force and whether the land is fit for paddy cultivation. The Revenue Divisional Officer, if he was not satisfied with the available materials, ought to have resorted to scientific data including satellite photographs obtained from KSREC. Ext.P8 proceedings to the extent it does not take a final decision on Form-5 application cannot stand the scrutiny of law.”



5. In this case, the specific case advanced by the petitioner is that, the property stood reclaimed even prior to the enactment of the Paddy Land Act. The said contention has not been adverted to in Ext.P3. No attempt has been made to examine the scientific data by obtaining the satellite images of the property as it stood prior to enactment of paddy land as well, despite the fact that, such reports could be easily obtained. Therefore, Ext.P3 cannot be treated as a proper order issued in compliance of the statutory requirements as prescribed in the Paddy Land Act.

Therefore, this writ petition is disposed of quashing Ext.P3 order with a direction to the 2nd respondent to reconsider Ext.P2 application. There shall be a further direction that, in case the petitioner approaches the 5th respondent within a period of three weeks from the date of receipt of copy of this judgment by submitting an application and requisite fees for obtaining the satellite images, the 5th respondent shall forward the same to the Kerala State Remote Sensing and Environment Centre, the 6th respondent herein, immediately on receipt of the same.



Thereupon, the 6th respondent shall submit a report to the 5th respondent within a period of one month from the date of receipt of such application. On receipt of the said report, the same shall be submitted by the 5th respondent immediately, before the 2nd respondent or the authorized officer under Section 2(XVA) of the Paddy Land Act, along with his report. On receipt of the said reports, the 2nd respondent or the authorised officer shall pass fresh orders on the Ext P2 application in Form 5 within a period of two months, in accordance with the law, taking note of the report of the Kerala State Remote Sensing and Environment Centre and other materials.

Sd/-

ZIYAD RAHMAN A.A.

JUDGE

rpk



APPENDIX OF WP(C) 20765/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE TAX RECEIPT DATED 12.04.2022
Exhibit P2	TRUE COPY OF THE FORM 5 APPLICATION SUBMITTED BY THE PETITIONER DATED 06.06.2022
Exhibit P3	TRUE COPY OF THE ORDER DATED 05.06.2023 ISSUED BY THE 2ND RESPONDENT
Exhibit P4	A COPY OF THE PHOTOGRAPHS OF THE PROPERTY OF THE PETITIONER

