2025:KER:26723

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

WP(C) NO. 35246 OF 2018

PETITIONER:

SIVADAS
AGED 54 YEARS
S/O P. CHANDRAN, EDAMPARAMBU,
BANK ROAD, ALATHUR, PALAKKAD DISTRICT

BY ADV BINOY VASUDEVAN

RESPONDENTS:

THE LOCAL LEVEL MONITORING COMMITTEE
FOR ALATHUR GRAMA PANCHAYAT,
REPRESENTED BY ITS CONVENER,
THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, ALATHUR

BY ADV GOVERNMENT PLEADER

OTHER PRESENT:

SRI.DHEERAJ A.S. ,GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH WP(C).520/2022, 35623/2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:26723

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

WP(C) NO. 520 OF 2022

PETITIONERS:

1 SIVADAS
AGED 57 YEARS
S/O. P.CHANDRAN, AGED 57 YEARS,
EDAMPARAMBU, BANK ROAD, ALATHUR P.O.,
PALAKKAD DISTRICT - 678541

2 SHEEBA
W/O. SIVADAS, AGED 50 YEARS,
EDAMPARAMBU, BANK ROAD, ALATHUR P.O.,
PALAKKAD DISTRICT - 678541

BY ADV BINOY VASUDEVAN

RESPONDENTS:

1 ALATHUR GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY,
PANCHAYAT OFFICE, ALATHUR,
PALAKKAD DISTRICT - 678541

2 THE SECRETARY
ALATHUR GRAMA PANCHAYAT,
PANCHAYAT OFFICE, ALATHUR,
PALAKKAD DISTRICT - 678541

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH WP(C).35246/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

THURSDAY, THE 27TH DAY OF MARCH 2025 / 6TH CHAITHRA, 1947

WP(C) NO. 35623 OF 2018

PETITIONER:

SHEEBA,
AGED 47 YEARS
W/O SIVADAS, EDAMPARAMBU,
BANK ROAD, ALATHUR,
PALAKKAD DISTRICT.

BY ADV BINOY VASUDEVAN

RESPONDENT:

THE LOCAL LEVL MONITORING COMMITTEE
FOR ALATHUR GRAMA PANCHAYAT,
REPRESENTED BY ITS CONVENER,
THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, ALATHUR- 678 105.

BY ADV GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27.03.2025, ALONG WITH WP(C).35246/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

2025:KER:26723

MOHAMMED NIAS C.P., J.

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W.P.(C) Nos.35246, 520 & 35623 of 2018

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Dated this the 27th day of March, 2025

J U D G M E N T

W.P.(C) No.35246 of 2018 is filed by the petitioner claiming to be in possession of land having an extent of 56 cents in Alathur Village in Alathur Taluk of Palakkad district as per Ext.P1 document. The property is described as a paddy field in the Basic Tax Register as well as in other revenue records though, it is his contention that it is a dry land. The petitioner had obtained permission under Clause 6(2) of the Kerala Land Utilization order, 1967 as per Ext.P2 dated 27.11.1984.

2. The petitioner applied before the Local Level Monitoring Committee to exclude the property from the data bank through an application Ext.P4 dated 14.07.2017 which was directed to be considered by this Court through Ext.P5 Judgment dated 30.10.2017 in W.P.(C) No. 34542 of 2017 as follows:

> " If the property of the petitioner is one converted prior to the Act with the permission of the competent authority under the

> Kerala Land Utilisation Order, the same should not have been included in the Data Bank prepared under the Act. Of course, the question as to whether the property of the petitioner is one covered by the order passed by the competent authority under the Kerala Land Utilisation Order has to be ascertained.
>
> In the circumstances, the writ petition is disposed of directing the respondent to consider Ext.P4 application preferred by the petitioner, after affording the petitioner an opportunity of hearing. The direction aforesaid shall be complied with, within one month from the date of receipt of a copy of this judgment."

3. Pursuant to the above judgment, the Local Level Monitoring Committee met and took Ext.P6 decision based on which Ext.P7 order was issued by the convener dated 18.08.2018 which is impugned in the writ petition.

4. Ext.P7 states that as per the KSREC report, the land in question is a fallow land suitable for paddy cultivation and answers the description of paddy land under the provisions of the Kerala Conservation of Paddy Land and Wet Land Act and Rules and therefore, the same cannot be excluded from the data bank.

5. It is to be noted that the directions in the earlier judgment of this Court have not been referred to while passing the impugned

order, and the impact of the KLU order stated in the judgment was also not considered.

6. Under such circumstances, Ext.P7 is quashed, and there will be a direction to the respondent to reconsider the case of the petitioner's property in the light of the observations made in Ext.P5 judgment and in terms of the provisions of the Kerala Conservation of Paddy Land and Wet Land Act and Rules. Fresh orders shall be passed within three months from the date of receipt of a certified copy of the judgment. The impugned order is quashed, and the writ petition is allowed as above.

7. W.P.(C) No. 35623 of 2018 is filed by the wife of the petitioner in the connected case, who owns 54 cents in Re-Sy.No. 389/3 of Alathur Village in Alathur Taluk of Palakkad District. The petitioner herein had also obtained an order under Clause 6(2) of the Kerala Land Utilization order, 1967 as seen from Ext.P3 dated 12.02.1982. The petitioner also approached the Local Level Monitoring Committee for removing the property from the data bank which was directed to be considered by this Court through judgment dated 27.11.2017 in W.P.(C) No. 34232 of 2017. Ext.P7 was passed holding that the property in

question is suitable for paddy cultivation based on the KSREC report filed with respect to the property in question. In Ext.P7 also, there is no consideration of the fact that the petitioner had earlier obtained orders under Clause 6(2) of the Kerala Land Utilization Order, 1967.

8. Under such circumstances, Ext.P7 cannot be sustained, and the same is quashed with a direction to the respondent to reconsider the case of the property of the petitioner on the basis of Ext.P6 judgment, and in terms of the provisions of the Kerala Conservation of Paddy Land and Wet Land Act and Rules. Fresh orders shall be passed within three months from the date of receipt of a certified copy of the judgment. The impugned order is quashed, and the writ petition is allowed as above.

9. W.P.(C) No. 520 of 2022 is filed by the petitioners in the connected cases challenging Ext.P6 which refuses to renew the building permit, Ext.P5 granted to the petitioner on 12.09.2018 with respect to the property covered in the earlier two cases. It states that the request of the petitioners for renewal will be considered after the properties are removed from the data bank. Since I have already directed reconsideration of the question of removal of the property from the

data bank as per the judgments in the connected cases, I am not inclined to quash Ext.P6 at this stage. Needless to say, it will be open to the petitioner to approach the Panchayat, in case they obtain orders removing the property from the data bank. Reserving such liberty and keeping all contentions in W.P.(C) No. 520 of 2022 open, the writ petition is disposed of.

Sd/-

MOHAMMED NIAS C.P.,

JUDGE

LU

APPENDIX OF WP(C) 520/2022

PETITIONER EXHIBITS :

EXHIBIT P1	**TRUE COPY OF DOCUMENT NO. 458/1983 OF S.R.O ALATHUR DATED 08-02-1993**
EXHIBIT P2	**TRUE COPY OF THE DOCUMENT DOCUMENT NO. 3599/1944 OF S.R.O ALATHUR DATED 20-12-1994**
EXHIBIT P3	**TRUE COPY OF THE PROCEEDINGS VIDE NO. D.DIS 8047/84 DATED 27-11-1984 ISSUED BY THE REVENUE DIVISIONAL OFFICER, PALAKKAD**
EXHIBIT P4	**TRUE COPY OF THE PROCEEDINGS OF THE ASSISTANT COLLECTOR, PALAKKAD VIDE NO. D.DIS 6196 DATED 12-02-1982**
EXHIBIT P5	**TRUE COPY OF THE BUILDING PERMIT NO. A2-BA(257249) 2018 DATED 12-09-2018 ISSUED BY THE 2ND RESPONDENT**
EXHIBIT P6	**TRUE COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT VIDE ORDER NO. A2-5472/21 DATED 04-10-2021**

APPENDIX OF WP(C) 35623/2018

PETITIONER EXHIBITS :

EXHIBIT P1	**TRUE COPY OF DOCUMENT NO.3599/1994 OF S.R.O., ALATHUR.**
EXHIBIT P2	**TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER.**
EXHIBIT P3	**TRUE COPY OF THE ORDER NO.D.DIS.6196/81 DATED 12.02.1982 OF THE ASSISTANT COLLECTOR, PALAKKAD.**
EXHIBIT P4	**TRUE COPY OF THE LETTER DATED 22.04.2017 ISSUED BY THE TERRITORY MANAGER OF BHARAT PETROLEUM CORPORATION.**
EXHIBIT P5	**TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE JUDGMENT DATED 27.11.2017 IN WP(C)NO.34232 OF 2017.**
EXHIBIT P7	**TRUE COPY OF ORDER NO.DCA/2/08/2018-19 DATED 18.08.2008.**
EXHIBIT P8	**TRUE PHOTOGRAPHS OF THE PETITIONERS PROPERTY.**

APPENDIX OF WP(C) 35246/2018

PETITIONER EXHIBITS :

EXHIBIT P1	**TRUE COPY OF DOCUMENT NO.458/1983 OF S.R.O.ALATHUR.**
EXHIBIT P2	**TRUE COPY OF THE ORDER NO.D.DIS.8047/84 DATED 27/11/84 OF THE ASSISTANT COLLECTOR, PALAKKAD.**
EXHIBIT P3	**TRUE COPY OF THE LETTER DATED 22/04/2017 ISSUED BY THE MANAGEMENT CONSULTANT TO THE TERRITORY MANAGER OF THE BHARAT PETROLEUM CORPORATION.**
EXHIBIT P4	**TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT DATED 14/07/2017.**
EXHIBIT P5	**TRUE COPY OF THE JUDGMENT DATED 30/10/2017 IN WP(C)NO.34542 OF 2017.**
EXHIBIT P6	**TRUE COPY OF THE MINUTES OF THE MEETING ALONG WITH THE COVERING LETTER DATED 13/07/2018.**
EXHIBIT P7	**TRUE COPY OF THE ORDER NO.DCA/1/09/2018-19 DATED 18/08/2018 ISSUED BY THE RESPONDENT.**
EXHIBIT P8	**TRUE PHOTOGRAPHS OF THE PETITIONERS PROPERTY.**

// True Copy // PA To Judge