



2025:KER:20534

WP(C) No.28015 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 7TH DAY OF MARCH 2025 / 16TH PHALGUNA, 1946

WP(C) NO. 28015 OF 2024

PETITIONER/S:

**MANJU G, W/O SANTHOSH,
AGED 34 YEARS
KARAYANKAD, VADAKKENCHERRY P.O, KANNAMBRA II VILLAGE,
ALATHUR TALUK, PALAKKAD DISTRICT, PIN - 678683**

**BY ADVS.
PRABHU K.N.
MANEESH.R**

RESPONDENT/S:

- 1 DISTRICT COLLECTOR ,
PALAKKAD, PIN - 678001**
- 2 REVENUE DIVISIONAL OFFICER ,
PALAKKAD, PIN - 678001**
- 3 TAHSILDAR ,
ALATHUR TALUK , PALAKKAD, PIN - 678541**
- 4 VILLAGE OFFICER,
VADAKKENCHERRY- II VILLAGE ALATHUR TALUK, PALAKKAD,
PIN - 678683**
- 5 AGRICULTURAL OFFICER,
VADAKKENCHERRY, ALATHUR TALUK, PALAKKAD, PIN - 678683**
- 6 LOCAL LEVEL MONITORING COMMITTEE,
(CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY
LAND AND WETLAND ACT 2008) REPRESENTED BY ITS CONVENOR
THE AGRICULTURAL OFFICERVADAKKENCHERRY, ALATHUR TALUK,
PALAKKAD, DISTRICT, PIN - 678683**

OTHER PRESENT:

ADV PREETHA K K -SR GP

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



J U D G M E N T

The petitioner, who is the owner of the property having an extent of 0.0203 Hectares of land comprised in Re.Sy.No. 23/16 in Block No.044 of Vadakkencherry-II Village of Alathur Taluk in Palakkad District, has approached this Court seeking the following reliefs:

- “i) Issue a writ in the nature of certiorari or any other writ or order quashing Exhibit PS report by the 5th respondent dated 22.05.2024 and Exhibit P6 order passed by the 2nd respondent dated 18-06-2024.
- ii) Issue & writ in the nature of mandamus or any other writ, direction or order declaring that the land under Re. survey No.23/16 of Block 44 of Vadakkencherry II village, Alathur Thaluk, Palakkad District owned by the petitioner is not either paddy land or wetland, for the purposes of inclusion in the Data Bank prepared in terms of the Kerala Conservation of Paddy Land and Wetland Act 2008, direct 2nd respondent to exclude the said land from the Data Bank and issue a certificate to the petitioner certifying that the lands in question have been excluded from the data bank.
- iii) Grant such other relieves which this Honourable Court may deem fit and proper in the circumstances of the case.”

2. The grievance of the petitioner is that, application submitted by the petitioner to remove the property of the petitioner from the data bank in Form-5 has been rejected as per Ext.P6, 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.P6, 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.P6 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.P6 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.P6. 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.P6 cannot be treated as a proper order issued in compliance of the statutory requirements as prescribed in of the Paddy Land Act.

Therefore, this writ petition is disposed of quashing Ext.P6 as below;-

- i The petitioner shall submit an application before the 5th respondent along with prescribed fees for getting a report from the Kerala State Remote Sensing and Environment Centre regarding the nature of the property of the petitioner prior to the enactment of the Kerala Conservation of Paddy Land and Wetland Act, 2008. Such an application shall be submitted within a period of two weeks from date of receipt of copy of this judgment.
- ii On receipt of the same, the said application shall be forwarded by the 5th respondent to the KSRSEC and report shall be obtained within a period of one month.
- iii On receiving such report, the same shall be forwarded by the 5th respondent to the 2nd respondent or to the authorized officer under Section



2(xvA) of the Kerala Conservation of Paddy Land and Wetland Act, 2008, along with his report within a period of two weeks.

- iv Upon receipt of the same, the 2nd respondent or the authorized officer as per Section 2(xvA) of the Kerala Conversation of Paddy Land and Wet Land Act, as referred to above, shall take a fresh decision on the Form-5 application and pass appropriate orders in accordance with the law, taking note of the reports of the 5th respondent as well as KSRSEC. The said order shall be passed within a period of two months from the date of receipt of the report referred to above.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**



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APPENDIX OF WP(C) 28015/2024

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE TITLE DEED NO. 2333 OF 2015 OF SRO VADAKKENCHERRY DATED 23.09.2015
Exhibit P2	TRUE COPY OF THE RELEVANT PAGE OF THE DATA BANK
Exhibit P3	TRUE COPY OF THE FORM 5 APPLICATION NO.1/2024/1915738 PREFERRED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATED 11/03/2024
Exhibit P4	TRUE COPY OF THE ORDER IN W.P.(C) NO.11889 OF 2024 DATED 22.03.2024
Exhibit P5	TRUE COPY OF THE REPORT OF THE 5TH RESPONDENT IN EXHIBIT P3 DATED 22.05.2024
Exhibit P6	TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT REJECTING EXHIBIT P3 APPLICATION DATED 18-06-2024

RESPONDENTS' EXHIBITS:NIL

TRUE COPY

P.A.TO JUDGE