

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 31ST DAY OF JULY 2017/9TH SRAVANA, 1939

WP(C).No. 12166 of 2016 (U)

PETITIONER(S) :

**M.K.VARGHESE,
MUKALADIYIL HOUSE, NIRANAM P.O.,
THIRUVALLA.**

**BY ADVS. SRI.T.PPRADEEP
SRI.P.K.SATHEES KUMAR**

RESPONDENT(S) :

**THE AGRICULTURAL OFFICER/CONVENOR OF THE LOCAL LEVEL
MONITORING COMMITTEE, KRISHI BHAVAN, NIRANAM,
THIRUVALLA, PATHANAMTHITTA-689 621.**

BY GOVERNMENT PLEADER SMT. RAJI.T.BHASKAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31-07-2017, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1 TRUE COPY OF THE SALE DEED DOCUMENT NO.813/94 OF SUB
 REGISTRAR OFFICE, PULIKEEZHU.
- EXT.P2 TRUE COPY OF THE PHOTOGRAPHS OF THE LAND.
- EXT.P3 TRUE COPY OF THE RELEVANT PAGE OF THE DATA BANK
 REGISTER NOTIFIED BY THE RESPONDENT.
- EXT.P4 TRUE COPY OF THE APPLICATION DATED 15.03.2016 SUBMITTED
 BY THE PETITIONER BEFORE THE RESPONDENT.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

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W.P.(C)No.12166 of 2016-U

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Dated this the 31st day of July, 2017

Judgment

The petitioner is aggrieved with the inclusion of his property in the data bank as paddy land. The extract of the data bank is produced at Ext.P3. The petitioner submits that though it was originally paddy lands, the aforesaid land is lying as a dry land, even before the implementation of the Kerala Conservation of Paddy Land Wet Land Act, 2008 (for brevity 'the Paddy Land Act').

2. The petitioner is concerned with 7.25 Ares in R.S Nos.510/4-1, 6.08 ares in Rs.S.No.510/6-1 and 3.03 ares in R.S No.510/6-2-1 of Niranam Village. The properties are said to be contiguously lying and was purchased by one single title deed as is evidenced from Ext.P1 sale deed. The petitioner has filed an application before the Agricultural Officer for removal of the subject land from the data bank,

which was declined, on the ground that the Agricultural Officer does not have such a power.

3. This Court, by an interim order, directed the Local Level Monitoring Committee (LLMC) to conduct a physical inspection of the property and file a report, which report has been placed on record, along with memo dated 24.07.2017. The physical inspection of the property was carried on by the LLMC on 27.05.2017 in the presence of the Village Officer, who identified the property. The nature of the property which lies in Sy.Nos.510-6-2-1 and 510-6-1, is said to be dry land. It is also reported that there are two coconut trees having an approximate age of 25 years, 5 Udhi trees having age of 5 years and one Anjily tree of 18 years of age. The property lying in SY.Nos.510/6-2-1 and 510/6-1 has; on the East Kadapra-Harippad link road, dry lands on its South and West and has wet land on the North. The property in Sy.No.510-4-1 is also lying as dry land; on the Eastern and northern side with wet

lands and dry land on the Southern side. The LLMC found that the subject land is a dry land, as existing even prior to the enactment of the Paddy Land Act. The LLMC has also relied on the Kerala State Remote Sensing and Environment Center (KSREC) report to find so.

4. The Report on Land-Use-Change issued by the KSREC indicates that from the geo-referenced images of 08.12.2015 (Fig.4), the plot is observed to be under plantation cover in the Eastern side and other portions in the Northern side are found to be paddy/fallow land. The KSREC report is with respect to the entire property lying in Sy.No.510. The subject property is comprised in the existing division of Sy.No.510 and that too lying to the East. The property on its East even as per the LLMC report has a road. The road and the vegetation cover is very evident from Figure (6 and 7) of the KSREC report. The KSREC report also hence supports the conclusion of the LLMC, which has decided to remove the land

from the data bank. The petitioner would have to be entitled to file an application before the LLMC as per the amendment brought to the Paddy Land Act to Rule 4(6) of the Kerala Paddy Land and Wetland Rules, 2008, which has to be decided on the basis of the report of the LLMC and KSREC as detailed above. The property shall be removed from the data bank within a period of one month from the date of receipt of a certified copy of this judgment.

5. On such removal being effected, certificate shall be issued by the Convener of the LLMC, on the basis of which, the petitioner shall be permitted to file an application before the RDO/District Collector. Going by the decision in **Revenue Divisional Officer v. Jalaja Dileep - 2015 (1) KLT 984 SC**. If the property is converted prior to the implementation of the Paddy Land Act, then, the conversion of user has to be sought for, from the District Collector/Revenue Divisional Officer (RDO) under Clause 6 of the Kerala Land Utilisation Order, 1967. The

petitioner would be entitled to file such an application before the appropriate authority and the appropriate authority would consider the application in accordance with the directions in

Puthan Purakkal Joseph v. Sub Collector - 2015 (3) KLT 182.

After the conversion is permitted, the petitioner could also seek change of categorisation before the land tax authorities and seek fresh assessment of the land as 'garden land', as has been declared in **Kizhakkambalam Grama Panchayath V. Mariumma - 2015(2) KLT 516.**

The writ petition would stand allowed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE