

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 28TH DAY OF SEPTEMBER 2017/6TH ASWINA, 1939

WP(C).No. 24846 of 2017 (E)

PETITIONER :

**BASHEER,
S/O. HANEEFA, AGED 64 YEARS,
MANAKULANGARA PARAMBIL HOUSE,
THAZHEKKAD P.O, KOMBODINJAMAKKAL, THRISSUR.**

BY ADV. SRI.N.B.ANOOP

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR,
THRISSUR -680 001.**
- 2. THE REVENUE DIVISIONAL OFFICER,
THRISSUR - 680 001.**
- 3. THE TAHSILDAR,
CHALAKKUDY - 680 307.**
- 4. THE VILLAGE OFFICER,
THAZHEKKAD VILLAGE - 680 697, THRISSUR DISTRICT.**
- 5. THE LOCAL LEVEL MONITORING COMMITTEE,
GRAMA PANCHAYATH, REP BY ITS CONVENER,
(THE AGRICULTURAL OFFICER, KRISHI BHAVAN,
ALLOOR - 680 683, THRISSUR DISTRICT).**
- 6. THE ALOOR GRAMA PANCHAYATH,
REPRESENTED BY SECRETARY, ALOOR - 680 683,
THRISSUR DISTRICT.**

**R1 TO R5 BY GOVERNMENT PLEADER SRI.RAVIKRISHNAN
R6 BY SRI.PHILIP T.VARGHESE, SC,
SRI.THOMAS T.VARGHESE, SC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-09-2017, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

WP(C).No. 24846 of 2017 (E)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1 TRUE COPY OF THE TAX RECEIPT DATED 11.4.16.

EXHIBIT P1(A) TRUE COPY OF THE TAX RECEIPT DATED 4.6.16.

**EXHIBIT P2 A TRUE COPY OF THE REPRESENTATION BEFORE THE 5TH
RESPONDENT DATED 10.7.17.**

**EXHIBIT P3 A TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER
TO THE 1ST RESPONDENT DATED 10.7.17.**

**EXHIBIT P4 A TRUE COPY OF THE RELEVANT PAGES OF THE DATA BANK ISSUED
FROM THE OFFICE OF THE 5TH RESPONDENT**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P.B.SURESH KUMAR, J.

W.P.(C).No.24846 of 2017-E.

Dated this the 28th day of September, 2017.

J U D G M E N T

Petitioner owns an item of property. It is stated that the said property was originally a paddy land and the same was converted as a garden land several years prior to the introduction of the Kerala Conservation of Paddy Land and Wetland Act, 2008 ('the Act'). The grievance of the petitioner in the writ petition is that since the property is described as 'Nilam' in the revenue records as also in the data bank prepared in accordance with the provisions contained in the Act, he is unable to use the property for the purpose of constructing a building. According to the petitioner, since the property was converted long prior to

the Act, the same should not have been shown in the data bank as 'Nilam'. The petitioner, therefore, preferred Ext.P2 application for correction of the entry relating to that property in the data bank. The petitioner also preferred Ext.P3 application before the first respondent invoking Clause 6(2) of the Land Utilisation Order (Kerala), 1967 seeking permission to make use of the property for other purposes including construction of buildings. The grievance of the petitioner in the writ petition concerns the inaction on the part of the competent authorities in considering the applications referred to above.

2. Heard the learned counsel for the petitioner as also the learned Government Pleader.

3. The learned Government Pleader points out that Ext.P2 application preferred by the petitioner for correction of entry relating to his property in the data bank is not in the form prescribed for the same.

4. If the property of the petitioner is one converted prior to the Act, the provisions of the Act would not apply to the same, as held by the Apex Court in

Revenue Divisional Officer v. Jalaja Dileep (2015(1) KLT 984). If the provisions of the Act do not apply to the property of the petitioner, he is entitled to make use of the property for construction of building, after obtaining permission of the competent authority under Clause 6 of the Land Utilization Order, [See **Puthan Purakkal Joseph v. Sub Collector** (2015(3) KLT 182)].

In the circumstances, the writ petition is disposed of permitting the petitioner to prefer an application in the prescribed form for correction of entry relating to the property referred to in the writ petition before the fifth respondent within two weeks from the date of receipt of a copy of this judgment. It is also directed that if the petitioner prefers an application in the prescribed form for correction of entry in the data bank as directed above, the fifth respondent shall consider and pass orders on the same, after obtaining report from the Kerala State Remote Sensing and Environment Centre (KSRSEC) as to the position of the property of the petitioner at the time of commencement of the Act. The petitioner shall pay the fees stipulated by the

KSRSEC for issuing their report as and when directed so by the Convener of the Local Level Monitoring Committee. The direction aforesaid shall be complied with, within three months from the date of receipt of a copy of this judgment along with a copy of the writ petition. If the request made by the petitioner for correction of the entry in the data bank is allowed, the first respondent shall pass orders on Ext.P3 application within one month from the date of production of a copy of the order passed by the fifth respondent correcting the entry in the data bank, in the light of the decision of this Court in **Puthan Purakkal Joseph** (*supra*), untrammelled by Circular No.46848/P1/2016 dated 22.12.2016 issued by the Government. If the request of the petitioner under Clause 6 of the Land Utilization Order is granted, he shall be issued building permit, if he is otherwise entitled for the same.

Sd/-

P.B.SURESH KUMAR
JUDGE