

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

TUESDAY, THE 31ST DAY OF AUGUST 2021 / 9TH BHADRA, 1943

WP(C) NO. 15453 OF 2021

PETITIONER :-

PUSHPAMMA JOSEPH, AGED 60 YEARS
W/O. C.J.JOSEPH, CHELAKKAT HOUSE, NO.42,
VIVEVEKANDHA ROAD, AIMS PONEKKARA P.O.,
ERNAKULAM DISTRICT, KOCHI-682 041.

BY ADVS.
P.K.SOYUZ
E.V.BABYCHAN

RESPONDENTS :-

- 1 THE REVENUE DIVISIONAL OFFICER/SUB COLLECTOR
RDO OFFICE, FORT KOCHI, ERNAKULAM, PIN-682 001.
- 2 THE TAHSILDAR (LR)
TALUK OFFICE, NORTH PARAVOOR P.O.,
ERNAKULAM, PIN-683 513.
- 3 THE VILLAGE OFFICER,
ELOOR VILLAGE, PARAVOOR TALUK, UDYOGAMANDAL P.O.,
ERNAKULAM DISTRICT, PIN-683 501.

BY SRI.P.S.APPU, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.08.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 31st day of August, 2021

This writ petition is filed challenging the letter issued by the Tahsildar as Ext.P3 directing the petitioner to approach the RDO with a request for correction of the nature of the property in the Basic Tax Register.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. It is submitted that the petitioner had obtained Ext.P1 order from the RDO under clause 6(2) of the Kerala Land Utilization Order. It is submitted that the application on which Ext.P1 order was passed was submitted on 27.7.2017. It is submitted that thereafter, the petitioner had made Ext.P2 application accompanied by due applications in the prescribed form for correction/additions in the Basic Tax Register by entering the property of the petitioner as purayidom/dry land/garden land and seeking the reassessment of tax in terms of Section 6A of the Kerala Land Tax Act. It is submitted that the said request has been rejected/returned by the Tahsildar by Ext.P3 proceedings stating that the petitioner has to approach the RDO under the Kerala

Conservation of Paddy Land and Wet Land Act, 2008. The learned counsel for the petitioner submits that the issue stands squarely covered by the decisions of this Court in **Fr.Jose Uppani and others v. District Collector, Ernakulam and others** [2020 (3) KLT 492] and of a Division Bench of this Court in **District Collector, Ernakulam and others v. Fr.Jose Uppani and others** [2020 (4) KLT 612] as well as the decision of this Court in **Iype Varghese v. Revenue Divisional Officer, Idukki and others** [2020 (5) KLT 403]. It is submitted that the 2nd respondent is duty bound to consider Ext.P2 request as well as the application preferred by the petitioner in due form and to record the conversion of land, exercising powers under Section 6A of the Kerala Land Tax Act. It is submitted that necessary additional entries will have to be made in the Basic Tax Register maintained in terms of Rule 4 of the Kerala Land Tax Rules to show the change in nature of the land as 'garden land or purayidom' and a reassessment will have to be effected in respect of the properties in question.

4. The learned counsel for the petitioner would further submit that the entry to be made in the revenue records should not

be as 'converted land' since there is no such classification of land as provided in the relevant enactments or even in terms of the revenue manual and that in view of the conversion duly carried out by the petitioner, the land should be shown as 'garden land/dry land/ purayidom' in the altered Basic Tax Register.

5. The learned Government Pleader submits, on instructions, that pursuant to the filing of this writ petition, the Tahsildar is reconsidering the issue and the petitioner has been called for a hearing to be conducted on 6.9.2021.

6. Having considered the contentions advanced and after considering the decisions of this Court, I am of the opinion that the challenge raised by the petitioner as against Ext.P3 rejection by the 2nd respondent is sustainable and is liable to be allowed. In the above view of the matter, Ext.P3 order of rejection is set aside. There will be a direction to the 2nd respondent to consider Ext.P2 request made by the petitioner as well as the application preferred by the petitioner in due form and to take appropriate steps, in accordance with law. In case the property of the petitioner, which is the subject matter of this writ petition, which is shown as 'paddy land/nilam' in the Basic Tax Register have been converted as

'garden land/dry land/purayidom' on the strength of Ext.P1 order or even earlier, the entries in the Basic Tax Register describing the properties as 'nilam or paddy land' would become redundant and the revenue authorities are statutorily obliged to pass appropriate orders in exercise of their powers under Section 6A of the Kerala Land Tax Act. Appropriate steps to secure additional entries in the Basic Tax Register to show the change in nature of the land as 'garden land/dry land/purayidom' will have to be taken by the 2nd respondent so that higher land tax could be levied in respect of the property in accordance with the conversion.

There will, accordingly, be a direction to the 2nd respondent to consider Ext.P2 request and the application submitted by the petitioner in due form and to effect the alterations by additional entries in the Basic Tax Register to show the change in nature of the land as 'purayidom/dry land/garden land' and to reassess the properties accordingly. In view of the fact that the 2nd respondent is already in seizin of the issue and is considering the application preferred by the petitioner and has scheduled a hearing on 6.9.2021, the necessary shall be done by the 2nd respondent within a period of six weeks from the date of

receipt of a copy of this judgment. Appropriate follow up action for effecting the changes in the Basic Tax Register shall be carried out by the 3rd respondent, in accordance with law, thereafter.

This writ petition is ordered accordingly.

**Sd/-
ANU SIVARAMAN
JUDGE**

Jvt/31.8.2021

APPENDIX OF WP(C) 15453/2021

PETITIONER EXHIBITS

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| Exhibit P1 | TRUE COPY OF THE KLU ORDER NO.K4-6904/17 DATED
15.01.2021 OF THE 1ST RESPONDENT |
| Exhibit P2 | TRUE COPY OF THE APPLICATION ALONG WITH FORM NO.A
APPLICATION DATED 18.03.2021 |
| Exhibit P3 | TRUE COPY OF THE LETTER NO.D1-3105/2021 DATED
29.05.2021 ISSUED BY THE 2ND RESPONDENT |
| Exhibit P4 | TRUE COPY OF THE RELEVANT PAGES OF THE KERALA LAND
REVENUE MANUAL 2019 VOLUME VI |
| Exhibit P5 | TRUE COPY OF THE JUDGMENT IN WPC NO.3243 OF 2021
DATED 25.03.2021 |