

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

WEDNESDAY, THE 30TH DAY OF NOVEMBER 2022/9TH AGRAHAYANA, 1944

WP(C) NO. 38626 OF 2022

PETITIONER:

V.J.VARGHESE
AGED 64 YEARS
RESIDING AT, 7-C,
WHITE WATERS,
PANDIT KARUPPAN ROAD,
THEVARA,
ERNAKULAM -682013.

BY ADVS.
SUJITH MATHEW JOSE
ELIZEBATH GEORGE

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI-682001.
- 2 AGRICULTURAL OFFICER/CONVENOR,
LOCAL LEVEL MONITORING COMMITTEE,
COCHIN CORPORATION,
KRISHI BHAVAN,
VYTTILLA, KOCHI-681019.

SMT.DEEPA NARAYANAN SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30.11.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C) No. 38626 of 2022

J U D G M E N T

Dated this the 30th day of November, 2022

The petitioner, who is owner of 2.27 Ares of land in Poonithura Village of Kanayannur Taluk in Ernakulam District, has filed this writ petition seeking to direct the 1st respondent-Revenue Divisional Officer to consider and pass orders on Ext.P3 application within a time frame to be fixed by this Court.

2. The petitioner states that he is owner of 2.27 Ares of land situated in Re-Survey Nos.334/1-207 and 334/1-404 in Block No.1 of Poonithura Village, Kanayannur Taluk in Ernakulam District. The land is a garden land. It is not cultivated with paddy. It is not fit for paddy cultivation either. However, the land is included in Data Bank and is described as paddy land in Revenue records also.

WP(C) No. 38626 of 2022

3. The petitioner wants to use the land for other purposes. Hence, the petitioner filed Ext.P3 application in Form-5, invoking Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application was filed on 26.02.2022. The application is not disposed of so far. Unless the application is considered expeditiously, the petitioner will be put to untold hardship and loss, contends the petitioner.

4. The Government Pleader representing the respondents resisted the writ petition. The Government Pleader controverted all material allegations made by the petitioner, in the writ petition. The Government Pleader, however, submitted that since the petitioner has invoked a statutory remedy under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008, the application submitted by the petitioner can be considered by the competent authority in accordance with law, provided the application is received, is complete in all respects and is

WP(C) No. 38626 of 2022

supported by all necessary documents.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the respondents.

6. The petitioner is owner of 2.27 Ares of land situated in Re-Survey Nos. 334/1-207, 334/1-404 in Block No.1 of Poonithura Village, Kanayannur Taluk in Ernakulam District. The land is included in the Data Bank of paddy land and wetland prepared under Section 5(4)(i) of the Kerala Conservation of Paddy Land and Wetland Act, 2008. According to the petitioner, the land owned by him is neither paddy land nor wetland. The land is not suitable for paddy cultivation. The petitioner wants to use the land for other purposes and hence he has filed an application in Form-5 seeking to remove the land from Data Bank.

7. The Form-5 application has been filed by the petitioner invoking his statutory right under Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The

WP(C) No. 38626 of 2022

application being a statutory application, the competent authority has a legal duty to consider the application in accordance with law, within a reasonable time.

The writ petition is therefore disposed of directing the 1st respondent-Revenue Divisional Officer to consider Ext.P3 Form-5 application submitted by the petitioner if the same is received, supported by all requisite documents and paying prescribed fee, if any, and to pass orders thereon in accordance with law, within a period of three months.

Sd/-

**N. NAGARESH
JUDGE**

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WP(C) No. 38626 of 2022

APPENDIX OF WP(C) 38626/2022

PETITIONER'S EXHIBITS

Exhibit P1	TRUE COPY OF THE CURRENT LAND TAX RECEIPT DATED 23.11.2022.
Exhibit P2	TRUE COPY OF THE RELEVANT EXTRACT OF THE DATA BANK ISSUED BY THE AGRICULTURAL OFFICER, VYTILA.
Exhibit P3	TRUE COPY OF THE FORM-5 APPLICATION DATED 26.02.2022.
Exhibit P4	TRUE COPY OF THE REPORT DATED 01.08.022 OF THE 2ND RESPONDENT.