

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

MONDAY, THE 31ST DAY OF JULY 2023 / 9TH SRAVANA, 1945

WP(C) NO. 22206 OF 2023

PETITIONER:

ADHIL MANZOOR (MINOR)
AGED 15 YEARS
S/O. MUHAMMED MANZOOR,
AARAMPULIKKAL HOUSE, KANGAZHA P.O.,
CHANGANASSERY, KOTTAYAM - 686541.
REPRESENTED BY HIS GUARDIAN
MUHAMMED MANZOOR, AGED 56 YEARS,
S/O. ABDUL JABBAR,
AARAMPULIKKAL HOUSE, KANGAZHA P.O.,
CHANGANASSERY, KOTTAYAM - 686541.

BY ADVS.
SHAKTHI PRAKASH
MUHASIN K.M.
SUKANYA S.

RESPONDENTS:

- 1 THE DISTRICT COLLECTOR
CIVIL STATION, KAKKANAD,
ERNAKULAM, PIN - 682030.
- 2 THE REVENUE DIVISIONAL OFFICER
FORT KOCHI REVENUE DIVISIONAL OFFICE,
K B JACOB ROAD, FORT KOCHI,
ERNAKULAM, PIN - 682001.
- 3 THE TAHSILDAR
ALUVA TALUK OFFICE, 1ST FLOOR,
MINI CIVIL STATION, PERIYAR NAGAR,
ALUVA, PIN - 683101.
- 4 THE VILLAGE OFFICER
ALUVA EAST VILLAGE OFFICE,
CHOONDI JUNCTION, ERUMATHALA,
ALUVA, PIN - 683563.

- 5 THE AGRICULTURE OFFICER
EDATHALA KRISHI BHAVAN, EDATHALA,
ALUVA, PIN - 683563.
- 6 THE DIRECTOR
KERALA STATE REMOTE SENSING AND ENVIRONMENT CENTRE,
VIKAS BHAVAN, THIRUVANANTHAPURAM - 695033.

BY ADV.DEVISREE R., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.07.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

Dated this the 31st day of July, 2023

The petitioner, who is owner of 6.73 Ares of property in Aluva East Village in Aluva Taluk, Ernakulam District, is challenging Ext.P3 order of the Revenue Divisional Officer, Fort Kochi, whereby the petitioner's request to remove the petitioner's land from the Data Bank stands rejected.

2. The petitioner owns 6.73 Ares of property comprised in Survey Nos.314/8-2-3 and 314/9-2-3, Block No.35 of Aluva East Village, Aluva Taluk of Ernakulam District. According to the petitioner, the land stood converted prior to the year 2008 when the Kerala Conservation of Paddy Land and Wetland Act, 2008 was enacted. The land is presently in the nature of 'Purayidam'.

3. However, when a Data Bank of Paddy Land and Wetland was constituted under Section 5(4)(i) of the Kerala Conservation of Paddy Land and Wetland Act, 2008, the

petitioner's land was included in the Data Bank. The petitioner wanted to use the land for other purposes. Therefore, the petitioner submitted Ext.P2 application in Form-5, invoking Rule 4(4D) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008.

4. The petitioner's Form-5 application has been rejected by the Revenue Divisional Officer as per Ext.P3 order. The petitioner challenges Ext.P3 order. According to the petitioner, the Revenue Divisional Officer has rejected the petitioner's application solely based on a report submitted by the Agricultural Officer. The petitioner submits that it is evident from the order that the Revenue Divisional Officer has neither made a Site inspection nor he has applied his mind while passing the impugned order.

5. The property of the petitioner lies in the nature of 'Purayidam'. Had the Revenue Divisional Officer harboured any doubt in this regard, he should have ordered to obtain scientific

data as provided under Rule 4(4F) of the Rules, 2008 to ascertain the nature of the land as it stood in the year 2008, contended the petitioner. If the order of the Revenue Divisional Officer is allowed to stand, it will interfere with the constitutional right of the petitioner to freely enjoy the land, which in turn will be violative of Article 300A of the Constitution of India, urged the petitioner.

6. Government Pleader entered appearance and resisted the writ petition. The Government Pleader denied all the averments made by the petitioner in the writ petition. When the petitioner submitted Form-5 application to remove land from Data Bank, the Revenue Divisional Officer sought a report from the Agricultural Officer.

7. Based on the findings of the Local Level Monitoring Committee, the Agricultural Officer submitted a Report. The said Report was made on the basis of a Site inspection. The report specifically recommended that the land is not to be removed from

the Data Bank as it would defeat the very purpose of the Act, 2008. The petitioner has not advanced any legal reason to unsettle the decision taken by the Revenue Divisional Officer, the Government Pleader insisted.

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

9. The petitioner owns 6.73 Ares of property comprised in Survey Nos.314/8-2-3 and 314/9-2-3, Block No.35 of Aluva East Village, Aluva Taluk of Ernakulam District. The petitioner's land was included in the Data Bank. The petitioner wanted to use the land for other purposes. Therefore, the petitioner submitted Ext.P2 application in Form-5.

10. I have perused Ext.P3 proceedings of the Sub Collector, Fort Kochi. It is evident that the Sub Collector has passed Ext.P3 proceedings based on a report dated 31.03.2023 of the Agricultural Officer, Edathala. In his report, it appears that

the Agricultural Officer has stated that there are no standing trees on the petitioner's land and there is no evidence on record to assume that the land was converted prior to the year 2008. The Local Level Monitoring Committee has recommended to retain the land in Data Bank. On that basis, the Agricultural Officer recommended that the property be retained in the Data Bank. The Revenue Divisional Officer accepted the recommendations of the Agricultural Officer as such and rejected the application of the petitioner.

11. The petitioner would assert that the land was converted prior to the year 2008 and it has been lying fallow for long years. I note that there is no finding in Ext.P3 as regards the present nature of the land. It is not stated whether the land is fit for paddy cultivation. The petitioner would submit that all nearby lands are well developed and the petitioner cannot viably cultivate the land with paddy. Taking into consideration the afore facts, I am of the

view that a decision on the Form-5 application of the petitioner ought to have been taken after obtaining scientific data.

In the circumstances, the writ petition is disposed of setting aside Ext.P3 and directing that if the petitioner submits an application for obtaining KSREC Report to the 5th respondent-Agricultural Officer within a period of two weeks, paying the prescribed fee, then the 2nd respondent-Revenue Divisional Officer shall reconsider and pass orders on the Form-5 application submitted by the petitioner, taking into consideration the KSREC Report also, within a further period of two months.

Sd/-

**N. NAGARESH
JUDGE**

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APPENDIX OF WP(C) 22206/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE TAX RECEIPT DATED 15.09.2022
Exhibit P2	TRUE COPY OF THE FORM 5 APPLICATION SUBMITTED BY THE PETITIONER DATED 15.09.2022
Exhibit P3	TRUE COPY OF THE ORDER DATED 22.05.2023 ISSUED BY THE 2ND RESPONDENT
Exhibit P4	A COPY OF THE PHOTOGRAPHS OF THE PROPERTY OF THE PETITIONER