



2025:KER:31629

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WP(C) NO. 34564 OF 2022

PETITIONERS:

- 1 MOHAMMED ASHRAF. C.P,
AGED 38 YEARS
S/O ABDUL KHADER HAJI, C.P. HOUSE , NARATH,CHELERI.P.O, KANNUR,
PIN - 670561
- 2 NAJILA. K.P,
AGED 27 YEARS
W/O MOHAMMED ASHRAF. C.P,C.P. HOUSE , NARATH,CHELERI.P.O,
KANNUR, PIN - 670561

BY ADVS.
ABDUL RA00F PALLIPATH
E.MOHAMMED SHAFI

RESPONDENTS:

- 1 THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF
REVENUE, GOVERNMENT SECRETARIAT, TRIVANDRUM, PIN - 695001
- 2 THE REVENUE DIVISIONAL OFFICER,
REVENUE TOWER, COURT ROAD,TALIPARAMBA, KANNUR, PIN - 670141
- 3 THE CONVENOR ,
LOCAL LEVEL MONITORING COMMITTEE, (AGRICULTURE OFFICER), NARATH
GRAMAPANCHAYAT, KANNUR, PIN - 670601

BY ADVS.
GOVERNMENT PLEADER
K.C.SANTHOSHKUMAR
GP- RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10.04.2025,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

Dated this the 10th day of April, 2025

Petitioners have approached this Court seeking to quash Exts.P17 to P20 and also for a declaration that the property of the petitioners are not a paddy land or wetland as defined under the Kerala Conservation of Paddy Land and Wetland Act, 2008.

2. The brief facts necessary for disposal of the writ petition are as follows:-

1st petitioner is the owner in possession of 36.36 ares in Re.Sy. No.240/1B of Narath Amsom Desom in Kannur District obtained as per Ext.P1 assignment deed and Ext.P2 release deed. In the property having an extend of 36.36 ares (90 cents), about 35 cents of property was surrendered for formation of the PWD road through the middle of the property. Out of the remaining 55 cents, 1st petitioner gifted 17 cents of land in favour of his wife, the 2nd petitioner herein as per Ext.P3 settlement deed. The entire land belonging to the petitioners were classified as 'purayidom' in the revenue records as evident from Exts.P4 and P5 land revenue payment receipts and has been paying land tax for the said properties. Ext.P6 possession certificate also shows the classification of property as unclassified dry land. Same is the description of the property in the Ext.P7 adangal extract issued by the Village Officer. In the data bank



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prepared in the year 2008 the said properties of the petitioners were not included. It is submitted that as far as the property of the 1st petitioner is concerned, on the southern side there is PWD road, on the eastern and western sides there are garden land. But on the northern side alone a water canal (thodu) is situated. As far as the property of the 2nd petitioner is concerned, on the eastern side a stone crusher is functioning and on the western side, a plywood factory and other buildings are situated, on the north a PWD road and on the southern side also the property of a third party is situated, which is not at all classified as a wet land.

3. The petitioners later came to know that the property was subsequently included in data bank as wetland as per Ext.P12 minutes of the Local Level Monitoring Committee. Petitioners submit that inclusion of the property in the data bank as wetland is absolutely arbitrary and illegal and without any justification. Thereupon petitioners submit Exts.P13 and P14 Form-5 applications and thereafter approached this Court by filing writ petitions, and this Court disposed of the said writ petitions as per Exts.P15 and P16 judgments. Based on the same, applications submitted by the petitioners were considered and rejected by Exts.P17 and P18 orders.



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4. A detailed counter affidavit has been filed by the 2nd respondent and based on the same the learned Government Pleader would contend that the impugned orders were passed taking into consideration the report submitted by the agricultural officer, that if the properties are excluded from the data bank it will adversely affect the ecological system. As per the decision in the meeting of LLMC held on 26.03.2018 not only the property of the petitioners but other neighboring properties were also included in the data bank. The land of the petitioners is actually transformed into what is today by filling soil illegally. It is considering the report and on verification of satellite images that the applications of the petitioners seeking exemption of the land from the data bank was declined by Exts.P17 and P18 orders.

5. I have heard the rival contentions of both sides.

6. Admittedly, the properties of the petitioners are included in the data bank as wetland and it is for removing the said entry in the data bank that the applications were submitted. Rule 4(4)(4e) of Kerala Conservation of Paddy Land and Wetland Rules, 2008 (hereinafter referred to as 'Rules, 2008') deals with consideration of application for removal from the data bank. It specifically mandates that if the applications received are for removal of the property which is included as paddy land, report from the agricultural officer



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is to be obtained and if the property has been classified as a wetland decision has to be taken based on the report of the Village Officer. Exts.P17 and P18 orders reveal that the decision has been taken based on the report submitted by the Agricultural Officer. After going by Rule 4(4)(4e) of Rules, 2008 it is without any doubt that a decision on the application submitted by the petitioner shall be taken on the basis of the report submitted by the Village Officer inasmuch as the property has been classified as a wetland. Though in the counter affidavit it is stated that the decision has been taken also based on KSRSEC report, the same is not reflected in Exts.P17 and P18 orders. The learned Counsel for the petitioner relies on the judgment in **Krishnankutty Menon and Another v. District Collector, Kozhikode and Others [2025 (1) KHC 647]**, wherein this Court has held that even in cases where reports are submitted by the Village Officer it is for the Revenue Divisional Officer to independently consider the matter and cannot solely rely on the report of the Village Officer to reject the application of the applicants. In the present case, admittedly decision was taken based on the report of the Agricultural Officer, which is against the mandate of Rule 4(4)(4e) of Rules, 2008.

Taking into consideration the above facts and circumstances, I am inclined to dispose of the writ petition as follows:-



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1. Exts.P17 and P18 orders are set aside.
2. The 2nd respondent/competent authority shall reconsider Exts.P13 and P14 applications submitted by the petitioners afresh after obtaining necessary report from the Village Officer concerned and after conducting a site inspection as well as verifying the KSRSEC report.
3. Petitioners will be free to submit their notes of argument and the same shall be duly considered by the 2nd respondent/competent authority while reconsidering the matter as directed above.
4. A decision in this regard shall be taken within an outer limit of three months from the date of receipt of a copy of this judgment.

Sd/-
VIJU ABRAHAM
JUDGE

sbk/-



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APPENDIX OF WP(C) 34564/2022

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ASSIGNMENT DEED NO. 2105/2013 DATED 03.07.2013
Exhibit P2	TRUE COPY OF THE RELEASE DEED NO. 2572/2014 DATED 27.08.2014
Exhibit P3	TRUE COPY OF THE SETTLEMENT DEED NO. 642/1/2017 DATED 9.3.2017
Exhibit P4	TRUE COPY OF THE LAND REVENUE PAYMENT RECEIPT DATED 23.07.2019 ISSUED TO 1ST PETITIONER
Exhibit P5	TRUE COPY OF THE LAND REVENUE RECEIPT DATED 3.3.2021 ISSUED TO THE 2ND PETITIONER
Exhibit P6	TRUE COPY OF THE POSSESSION CERTIFICATE DATED 3.11.2017 ISSUED BY THE VILLAGE OFFICER, NARATH
Exhibit P7	TRUE COPY OF THE ADANGAL EXTRACT ISSUED BY THE VILLAGE OFFICER, NARATH
Exhibit P8	TRUE COPY OF THE ROUGH SKETCH PLAN OF THE PROPERTY OF THE PETITIONERS
Exhibit P9	TRUE COPY OF THE BUILDING PLAN ENDORSED ON 24.09.2020
Exhibit P10	TRUE COPY OF THE SITE PLAN ENDORSED ON 24.09.2020
Exhibit P11	TRUE COPY OF THE BUILDING PERMIT DATED 05.10.2020 ISSUED BY NARATH GRAMAPANCHAYAT
Exhibit P12	TRUE COPY OF THE MINUTES DATED 26.3.2018
Exhibit P13	TRUE COPY OF FORM 5 APPLICATION FILED BY THE 1ST PETITIONER



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| Exhibit P14 | TRUE COPY OF FORM 5 APPLICATION FILED BY THE 2ND PETITIONER |
| Exhibit P15 | . TRUE COPY OF THE JUDGMENT DATED 31/3/2022 IN WPC 7146/2022 |
| Exhibit P16 | TRUE COPY OF THE INTERIM ORDER DATED 30.5.2022 IN WPC 17331/2022 |
| Exhibit P17 | TRUE COPY OF THE ORDER DATED 5.8.2022 OF THE REVENUE DIVISIONAL OFFICER ISSUED TO THE 1ST PETITIONER |
| Exhibit P18 | TRUE COPY OF THE ORDER ISSUED BY THE REVENUE DIVISIONAL OFFICER TO THE 2ND PETITIONER |
| Exhibit P19 | TRUE COPY OF MINUTES OF THE MEETING DATED 16.7.2022 |
| Exhibit P20 | TRUE COPY OF MINUTES OF THE MEETING DATED 16.7.2022 |
| Exhibit P21 | THE TRUE PHOTOGRAPHS SHOWING THE LIE AND NATURE OF THE PROPERTY OF THE 1ST PETITIONER |
| Exhibit P22 | THE TRUE PHOTOGRAPHS SHOWING THE LIE AND NATURE OF THE PROPERTY OF THE 2ND PETITIONER |
| Exhibit P23 | TRUE COPY OF THE MINUTES OF THE MEETING OF THIRD RESPONDENT DATED 26.5.2017 OBTAINED AS PER RTI ACT |
| Exhibit P24 | THE TRUE COPY OF THE REPORT OF THE VILLAGE OFFICER OBTAINED AS PER RTI ACT DATED 27.10.2020 |
| Exhibit P25 | THE TRUE COPY OF THE PERMIT DATED 24.6.2017 GIVEN BY NARATH PANCHAYATH |
| Exhibit P26 | TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 22.9.2020 |



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Exhibit P 27

**A TRUE COPY OF THE MINUTES AND THE GOOGLE
IMAGE WITH COVERING LETTER DATED
27.10.2023**