



WP(C) NO. 35796 OF 2023

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2024:KER:78121

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 21st DAY OF OCTOBER 2024 / 29TH ASWINA, 1946

WP(C) NO. 35796 OF 2023

PETITIONER:

ABDUL SALAM, AGED 52 YEARS,
S/O.NINAR, RESIDING AT PALACHUVATTIL HOUSE,
AVUMKARA, VELLOORKUNNAM, MUVATTUPUZHA,
ERNAKULAM DISTRICT, PIN - 686661

BY ADVS. C.DILIP
R.PRADEEP
ANUSHKA VIJAYAKUMAR
JIJO JOSEPH

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
1 REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001

REVENUE DIVISIONAL OFFICER,
2 MINI CIVIL STATION, VAZHAPPILLY,
MUVATTUPUZHA, ERNAKULAM DISTRICT, PIN - 686669

TAHSILDAR,
3 MUVATTUPUZHA, MINI CIVIL STATION, VAZHAPPILLY,
MUVATTUPUZHA, ERNAKULAM DISTRICT, PIN - 686669



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4 VILLAGE OFFICER, MUVATTUPUZHA VILLAGE,
ERNAKULAM DISTRICT, PIN - 686661

5 AGRICULTURAL FIELD OFFICER,
KRISHI BHAVAN, MINI CIVIL STATION,
GROUND FLOOR, MUDAVOOR.P.O, MUVATTUPUZHA,
ERNAKULAM DISTRICT, PIN - 686669

BY GOVERNMENT PLEADER SMT. DEVI SHRI. R.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR HEARING
ON 21.10.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

The petitioner is stated to be the owner in possession of 17.5 cents of land in Muvattupuzha Village as per Exts.P1 and P2 sale deeds. The petitioner obtained Ext.P3 order under Clause 6(2) of the Kerala Land Utilization Order, 1967, on 19.09.2018, granting permission to change the user based on the decision of the Local Level Monitoring Committee, which found that the land was already converted. Permission was granted for putting up a building subject to the conditions mentioned therein. The request of the petitioner to delete the property from the Data Bank was also allowed as per Ext.P4, dated 17.02.2018. The Data Bank after the necessary correction is produced as Ext.P5, which shows that the same has been removed from the Data Bank.

2. The petitioner, based on the above documents, filed an application under Form-6 of the Kerala Conservation of the Paddy Land and Wetland Act and Rules which was allowed on 13.08.2021



imposing conversion charges of Rs.4,67,280/-. The petitioner submits that he could not make the payment then and later when he expressed his willingness to pay, he was directed to file a fresh application under Forms 5 and 6 of the Kerala Conservation of the Paddy Land and Wetland Act and Rules, which he did. Through Ext.P8, the application submitted by the petitioner under Form-5 was rejected and through Ext.P9, his request under Form-6 was also rejected. Petitioner thereafter filed an application under Form-A under Section 6(3) of the Kerala Land Tax Act, 1961, based on Exts.P3 and P7 orders.

3. This court by judgment in W.P.(C) No.16433/2023, dated 30.06.2023, directed the application to be considered in the light of the judgments of this Court in **Mary Abraham v. State of Kerala and Others [2020 (4) KLT 448]** and **District Collector, Ernakulam and Others v. Fr. Jose Uppani and others [2020 (4) KLT 612]** finding that the above decisions held that once an enabling order is passed under Rule 6(2) of the Kerala Land Utilization Order, 1967,



permitting conversion of the land, then the earlier entries in the BTR showing the land as Nilam, Paddy Land, etc will become superfluous and redundant and the competent Revenue officials like the Tahsildar are obliged under law to make a fresh assessment of the property under Section 6A of the Kerala Land Tax Act, 1961. This Court directed orders to be passed in the Form-A application within one month. Through Ext.P12, the Tahsildar (Land Records) rejected the application based on Exts.P8 and P9 which were the orders rejecting the Form 5 and Form-6 applications filed after Exts.P3 and P7 orders. The petitioner challenges Exts.P8, P9, and P12 and also the demand for conversion charges imposed in Ext.P7 for the reasons stated above.

4. A statement has been filed on behalf of the Government giving no explanation whatsoever as to how Exts.P8 and P9 could have been placed in view of the passing of Exts.P3 and P7 orders. The stand of the Government is that since the property has now been included in the Data Bank, the petitioner has to get the



property removed by filing an appropriate application under Form-5.

5. After hearing the learned counsel for the petitioner and the learned Government Pleader, it is clear that the petitioner's application under Clause 6(2) of the Kerala Land Utilization Order was allowed as per Ext.P3 on 19.09.2018 relying on the order to delete the property from the Data Bank, Ext.P4 on 17.02.2018. Consequential orders were also passed under Form-6 as seen from Ext.P7 on 13.08.2021. Given the above orders, there is no warrant for the petitioner to be directed to apply under Form-5 or Form-6 thereafter concerning the same property. The petitioner was obviously misled to file those applications. As held in the judgments of this Court in **Mary Abraham and Fr. Jose Uppani**, on the strength of Exts.P3, P4 and P7, the Form-A submitted by the petitioner ought to have been allowed, subject to verification of the identity and extent of the property. Equally, there could not have been any demand for conversion charges made in Ext.P7 for a



property covered under the Kerala Land Utilization Order, Ext.P3.

Under such circumstances, the impugned orders are only to be quashed and the writ petition is allowed. There will be a direction to the authority concerned to reconsider Ext.P10, Form-A application, and to pass appropriate orders in the light of the observations made above, at the earliest, at any rate, within two months from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

Sd/-

MOHAMMED NIAS C.P.

JUDGE

DMR/-



APPENDIX OF WP(C) 35796/2023

PETITIONER'S EXHIBITS

Exhibit P1	TRUE PHOTO COPY OF SALE DEED NO 4198/2012 OF S.R.O, MUVATTUPUZHA DATED 17.07.2012
Exhibit P2	TRUE PHOTO COPY OF SALE DEED NO 4942/2013 OF S.R.O, MUVATTUPUZHA DATED 04.11.2013.
Exhibit P3	TRUE PHOTO COPY OF ORDER DATED 19.09.2018
Exhibit P4	TRUE PHOTO COPY OF LETTER DATED 17.02.2018 ISSUED BY THE 5THRESPONDENT TO THE SECRETARY OF MUVATTUPUZHA MUNICIPALITY
Exhibit P5	TRUE PHOTO COPY OF RELEVANT PAGE OF CORRECTED DATA BANK OF PETITIONER'S PROPERTY
Exhibit P6	TRUE PHOTO COPY OF LETTER DATED 18.01.2018 ISSUED BY THE 5TH RESPONDENT
Exhibit P7	TRUE PHOTO COPY OF CONDITIONAL ORDER DATED 13.08.2021 ISSUED BY THE SECOND RESPONDENT ALLOWING CONVERSION OF LAND.
Exhibit P8	TRUE PHOTO COPY OF ORDER DATED 20.03.2023 ISSUED BY THE SECOND RESPONDENT IN FORM 5 APPLICATION
Exhibit P9	TRUE PHOTO COPY ORDER DATED 20.03.2023



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ISSUED BY RESPONDENT NO 2 IN FORM 6
APPLICATION

Exhibit P10

TRUE PHOTO COPY OF APPLICATION DATED
29.05.2023 SUBMITTED BEFORE THE THIRD
RESPONDENT IN FORM A OF LAND TAX RULES

Exhibit P11

TRUE PHOTO COPY OF JUDGMENT DATED
30.06.2023 IN W.P (C) NO 16433/2023

Exhibit P12

TRUE PHOTO COPY OF ORDER DATED
01.09.2023 ISSUED BY THE SECOND
RESPONDENT.

RESPONDENT EXHIBITS

Exhibit R3(a)

TRUE COPY OF THE PHOTOGRAPH OF THE
SUBJECT PROPERTY

TRUE COPY OF THE DATA BANK SUBMITTED BY
THE AGRICULTURAL OFFICER

Exhibit R3(b)

// TRUE COPY //

P.A. TO JUDGE