



2025:KER:15156

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

FRIDAY, THE 21ST DAY OF FEBRUARY 2025 / 2ND PHALGUNA, 1946

WP(C) NO. 40904 OF 2022

PETITIONER:

ST: JOSEPHS' FORANE CHURCH
AGED 63 YEARS
KODAKARA, THRISSUR DISTRICT REPRESENTED BY ITS VICAR,
FR DAVIS KALLINGAL, AGED 63 YEARS, S/O OUSEPH, ST
JOSEPH'S FORANE CHURCH, KODAKARA, THRISSUR DISTRICT,
PIN - 680684

BY ADVS.
MAYA M.
V.M.KRISHNAKUMAR
RENJITH THAMPAN (SR.)

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER
IRINJALAKUDA, CIVIL STATION ANNEXE, IRINJALAKUDA,
THRISSUR DISTRICT., PIN - 680125
- 2 AGRICULTURAL OFFICER
KODAKARA KRISHI BHAVAN, KODAKARA, THRISSUR DISTRICT,
PIN - 680624
- 3 G
KODAKARA VILLAGE, KODAKARA, THRISSUR DISTRICT., PIN -
680624

GP- RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



2025:KER:15156

VIJU ABRAHAM , J.

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WP(C) No. 40904 of 2022

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Dated this the 21st day of February, 2025**J U D G M E N T**

Petitioner has approached this Court challenging Ext.P1 order, whereby the application in Form-5 submitted by the petitioner has been rejected.

2. Petitioner would contend that Ext.P1 order has been issued solely relying on the report of the Agricultural Officer intimating that the LLMC has taken a decision not to remove the property from the data bank.

3. A detailed counter affidavit has been filed by the 1st respondent contending that the orders have been issued taking into consideration all material facts, and therefore no interference is called for.

4. This Court in **Sudheesh U. v. Revenue Divisional Officer, Palakkad [2023 (2) KHC 505]** has held that only for the reason that the property is left fallow, it cannot be brought within the definition of paddy land and going by the definition of paddy land in Section 2(12) of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (hereinafter referred to as the 'Act, 2008'), to



2025:KER:15156

bring in the land within the definition of paddy land it should be suitable for paddy cultivation, but uncultivated and left fallow, and the Revenue Divisional Officer should be satisfied that the land is suitable for paddy cultivation and left fallow, and thereafter only on satisfaction of the said two conditions that the land could be treated as paddy land coming under the definition of Section 2(12) of the Act, 2008. It is settled law that the Revenue Divisional Officer can take into consideration the KSRSEC report, the findings in the site inspection and also the report of the Agricultural Officer for entering a finding as to whether the property is a paddy land or not but it is the ultimate satisfaction of the Revenue Divisional Officer that the property was lying as a paddy land as on the coming into force of the Act, and that the property is suitable for paddy cultivation.

5. This Court has on various occasions considered the scope of consideration of the Form-5 application and the relevant factors to be taken into consideration while considering the same. This Court in **Salim C.K. and Another v. State of Kerala and Others, 2017 (1) KHC 394** has held that the Data Bank that was contemplated as per the provisions of the Act was to contain details only of cultivable paddy land and wetland within the area of jurisdiction of LLMC concerned. Further in **Lalu P.S. v. State of**



2025:KER:15156

Kerala, 2020 (5) KHC 490 has held that the data bank to be prepared under the Act is the data bank of the cultivable paddy land existing as on the date of the coming into force of the Rules, i.e., 24.12.2008. In **Joy v. Revenue Divisional Officer/Sub Collector, 2021 (1) KLT 433** it was held that it is the character and fitness of the land as available on 12.08.2008, that matters, to include or exclude a land from the data bank. This court in **Arthasasthra Ventures (India) LLP v. State of Kerala 2022 (4) KLT OnLine 1222** has held that the most relevant aspect while considering Form-5 application is whether the land in question was a paddy land or a wetland when the Act, 2008 came into force and whether the land is fit for paddy cultivation and if the Revenue Divisional Officer was not satisfied with the available materials, ought to have resorted to scientific data including satellite photographs obtained from KSRSEC. This court in **Muraleedharan Nair v. Revenue Divisional Officer, 2023 (4) KLT 270** has held that when the petitioner seeks removal of his land from the Data Bank, it will not be sufficient for the Revenue Divisional Officer to dismiss the application simply stating that the LLMC has decided not to remove the land from Data Bank. The Revenue Divisional Officer being the competent authority, has to independently assess the status of the land and come to a conclusion that removal of the



2025:KER:15156

land from Data Bank will adversely affect paddy cultivation in the land in question or in the nearby paddy lands or that it will adversely affect sustenance of wetlands in the area and in the absence of such findings, the impugned order is unsustainable. Further, this Court in **Aparna Sasi Menon v. Revenue Divisional Officer, 2023 (5) KLT 432** has held that the predominant factor for consideration while considering the Form5 application should be whether the land which is sought to be excluded from Data Bank is one where paddy cultivation is possible and feasible. Further this Court in **Ashique v. Revenue Divisional Officer [2024 KHC OnLine 1145]** has also held that the Revenue Divisional Officer cannot reject a Form-5 application solely based on the report of the Agricultural Officer, and the RDO being the competent authority has to independently assess the status of the land and come to the conclusion that the removal of the land from the data bank will adversely affect paddy cultivation in the land in question or the neighbouring paddy land or will adversely affect sustenance of wetland area, and that the relevant consideration for inclusion of the property as paddy land or wetland is as to the nature of the property as on the date of coming into force of the Act.

6. In view of the above facts and circumstances and the declaration of law as stated above, I am of the view that the



2025:KER:15156

Revenue Divisional Officer was duty bound to consider the application in accordance with law. The Revenue Divisional Officer is duty bound to give cogent reason for not being able to accept the request made by the petitioner. Therefore, Ext.P1 is set aside with a consequential direction to the Revenue Divisional Officer to reconsider Ext.P5 application in Form-5 submitted by the petitioner, and reconsider the matter in the light of the observations made above within an outer limit of two months from the date of receipt of a copy of this judgment. Petitioner will be free to submit his notes of argument which shall also be duly considered while reconsidering the matter as directed above.

With the above said direction, the writ petition is disposed of.

Sd/-
VIJU ABRAHAM
JUDGE

sbk/-



APPENDIX OF WP(C) 40904/2022

PETITIONER EXHIBITS

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|-------------------|---|
| Exhibit P1 | TRUE COPY OF THE ORDER OF THE REVENUE
DIVISIONAL OFFICER DATED 05.12.2022 |
| Exhibit P2 | TRUE COPY OF THE POSSESSION CERTIFICATE
DATED 23.11.2021 ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER |
| Exhibit P3 | TRUE COPY OF THE TAX RECEIPT DATED
13.05.2022 |
| Exhibit P4 | TRUE COPY OF THE RELEVANT PAGE OF THE
FINAL DATA BANK PUBLISHED BY THE 2ND
RESPONDENT BY NOTIFICATION NO. A2-
7448/2020 DATED 23.01.2021 |
| Exhibit P5 | TRUE COPY OF FORM NO.5 APPLICATION FILED
BY THE PETITIONER DATED 10.6.2022 |
| Exhibit P6 | TRUE COPY OF THE REPORT OF THE VILLAGE
OFFICER DATED 14.09.2021 SUBMITTED BEFORE
THE 1ST RESPONDENT |

RESPONDENT EXHIBITS

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| Exhibit R1(a) | true copy of report of the Agricultural
Officer dtd 23-11-2022 |
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PETITIONER EXHIBITS

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| Exhibit P7 | TRUE COPY OF THE DECISION REPORTED IN
2021 (1) KLT 433 (JOY.K.K. V. REVENUE
DIVISIONAL OFFICER/SUB COLLECTOR,
ERNAKULAM AND OTHERS) |
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RESPONDENT EXHIBITS

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| Exhibit R1(b) | True copy of the KSREC report |
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