



2025:KER:20336

WP(C) No.27685 of 2024

1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 7TH DAY OF MARCH 2025 / 16TH PHALGUNA, 1946

WP(C) NO. 27685 OF 2024

PETITIONER/S:

KANNAN A,
AGED 49 YEARS
S/O. APPACHI KOUNDER, A K K NIVAS HOUSE, NAIRTHARA,
VADAKKENCHERRY P.O, VADAKKENCHERY I VILLAGE, ALATHUR
TALUK, PALAKKAD DISTRICT, PIN - 678683

BY ADVS.
PRABHU K.N.
MANEESH.R

RESPONDENT/S:

- 1 DISTRICT COLLECTOR,
PALAKKAD, PIN - 67800
- 2 REVENUE DIVISIONAL OFFICER,
PALAKKAD, PIN - 678001
- 3 TAHSILDAR,
ALATHUR TALUK , PALAKKAD DISTRICT, PIN - 678541
- 4 VILLAGE OFFICER,
VADAKKENCHERRY- II VILLAGE ALATHUR TALUK, PALAKKAD,
PIN - 67868
- 5 AGRICULTURAL OFFICER,
VADAKKENCHERRY, ALATHUR THALUK, PALAKKAD, PIN - 67868
- 6 LOCAL LEVEL MONITORING COMMITTEE ,
(CONSTITUTED UNDER THE KERALA CONSERVATION OF PADDY
LAND AND WETLAND ACT 2008) REPRESENTED BY ITS CONVENOR
THE AGRICULTURAL OFFICER VADAKKENCHERRY, ALATHUR TALUK,
PALAKKAD, DISTRICT, PIN - 678683

OTHER PRESENT:

ADV PREETHA K K- SR GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
07.03.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

The petitioner is the owner in possession of the property having an extent of 0.0060 hectares of land comprised in Re.Sy.No.248/17 of Block No.46 of Vadakkencherry-II Village in Alathur Taluk of Palakkad District. The grievance of the petitioner is that, despite the fact that the property of the petitioner is lying a dry land, even prior to the enactment of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (herein after referred to as 'Paddy Land Act'), the same was included in the Data Bank prepared under the Act by describing it as 'Paddy Land'. In such circumstances, for removing the said entry from the Data Bank, Ext.P3 application in Form-5 was submitted by the petitioner. However, the same was rejected as per Ext.P7 order passed by the 2nd respondent. This writ petition is submitted by the petitioner challenging Ext.P7.

2. I have heard Sri. Prabhu K.N., the learned counsel for the petitioner and the Smt. Preetha K, the learned Government Pleader.

3. The main challenge raised in Ext.P7 is that, the same was passed, simply accepting the report of the Agriculture



Officer and without conducting a proper and independent inquiry by the 2nd respondent on his own. Besides it was found that the property is fallow land as per KSRSEC Report. According to the 2nd respondent, as per the definition of Paddy Land under Sec.2(xii) of the Paddy Land Act, the fallow land also has to be treated as paddy land.

4. After carefully going through the contents of Ext.P7 and also the other materials placed on record, I find that, Ext.P7 cannot be treated as a proper order passed in compliance with the stipulations under the Paddy Land Act.

5. First of all, it is to be noted that, as rightly pointed out by the learned counsel for the petitioner, Ext.P7 does not contain an independent assessment of the 2nd respondent and instead, the report of the Agriculture Officer as such, has been accepted. As far as the report of the Agriculture Officer is concerned, the same can only be treated as one of the materials for deciding the issue i.e., the nature of the property, which is the subject matter of the case. In other words, the enquiry contemplated for considering the application in Form-5 is not confined to the acceptance of the report of the Agricultural Officer and the other materials shall also to be taken into account.



6. Apart from the above, from Ext.P7 order, it is discernible that even as per the report of the Agricultural office, the property is described as a fallow land. For arriving at the said conclusion, the contents of Ext.P5 KSRSEC Report was also relied on. However, the conclusion of the 2nd respondent is to the effect that, since the property is fallow land, the same would come within the definition of Paddy land Act as per Sec.2(xii) of the Act. The said finding is not correct and is against the definition of Paddy land Act as contemplated under Sec.212.

7. As per the said definition, the nature of the property must be that ,where there is paddy cultivation at least once in a year or it is suitable for Paddy cultivation but uncultivated and left fallow. Therefore, it is evident that merely because the property was described as 'fallow land', it cannot be treated as a paddy land unless the same is having the characteristics and features as referred to in Sec.2(xii) of the Paddy land Act. This would mean that, either there must be cultivation of paddy once in a year or it must be suitable for paddy cultivation.

8. Here in this case, apart from the finding that it is a 'fallow land', no attempt has been made to find out



whether any paddy cultivation was being conducted once in a year or whether was it suitable for paddy cultivation, as on the date of enactment of the Paddy Land Act. Therefore Ext.P7 order passed by the 2nd respondent is on a misunderstanding of the meaning of Paddy land as defined under Sec.2(xii) of the Paddy Land Act. Therefore, reconsideration is absolutely necessary.

In such circumstances, this writ petition is disposed of quashing Ext.P7 with a direction to the 2nd respondent to reconsider Ext.P3 application submitted by the petitioner, taking note of the observations made by this Court in this judgment and conducting an independent enquiry by, collecting all the inputs, by finding out whether the property was suitable for paddy cultivation as on the date enactment of the Paddy Land Act. Necessary orders in this regard shall be passed within a period of two months from the date of receipt of copy of this judgment.

Sd/-

**ZIYAD RAHMAN A.A.
JUDGE**



2025:KER:20336

WP(C) No.27685 of 2024

6

APPENDIX OF WP(C) 27685/2024

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE TITLE DEED NO. 1371 OF 2020
OF SRO ALATHUR DATED 02.07.2020 |
| Exhibit P2 | TRUE COPY OF THE RELEVANT PAGE OF THE DATA
BANK |
| Exhibit P3 | TRUE COPY OF THE FORM 5 APPLICATION
NO.1/2024/1884413 PREFERRED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT DATED 29/01/2024 |
| Exhibit P4 | TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.4216
OF 2024 DATED 02.02.2024 |
| Exhibit P5 | TRUE COPY OF THE KSREC REPORT OF RE. SURVEY
NO.248/3 (PARENT RE. SURVEY NO OF RE. SURVEY
NO.248/17) OF BLOCK 46 OF VADAKKENCHERRY II
VILLAGE, ALATHUR THALUK, PALAKKAD DISTRICT
DATED 10.02.2020 |
| Exhibit P6 | TRUE COPY OF THE REPORT OF THE 5TH RESPONDENT
IN EXHIBIT P3 DATED 04.04.2024 |
| Exhibit P7 | TRUE COPY OF THE ORDER PASSED BY THE 2ND
RESPONDENT REJECTING EXHIBIT P3 APPLICATION
DATED 28-06-2024 |

RESPONDENTS' EXHIBITS:NIL

TRUE COPY

P.A.TO JUDGE