

Kizhakkethil Itheerumma vs the Director

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Court : Kerala

Decided On : Jul-31-2024

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : WP(C)/28189/2022

Appellant : Kizhakkethil Itheerumma

Respondent : The Director

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
WEDNESDAY, THE 31ST DAY OF JULY 2024 / 9TH SRAVANA, 1946
WP(C) NO. 28189 OF 2022 PETITIONER: KIZHAKKETHIL
ITHEERUMMA,AGED 70 YEARS W/O.MUTHUKOYA THANGAL,
PATTIKALATHIL HOUSE, VADAKKANGARA, PONNIYAKRISHI,
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT - 679 324. BY
ADVS. P.SAMSUDIN MILAN RACHEL MATHEW LIRA A.B.
RESPONDENTS:

1 THE DIRECTOR KERALA STATE REMOTE SENSING AND
ENVIRONMENT CENTRE, C BLOCK, VIKAS BHAVAN,

THIRUVANANTHAPURAM - 695 033. 2 THE DISTRICT COLLECTOR MALAPPURAM, CIVIL STATION, UP-HILL, MALAPPURAM DISTRICT - 676 505. 3 THE REVENUE DIVISIONAL OFFICER PERINTHALMANNA, PERINTHALMANNA P.O., MALAPPURAM DISTRICT - 679 322. 4 THE TAHSILDAR PERINTHALMANNA TALUK, PERINTHALMANNA P.O., MALAPPURAM DISTRICT - 679 322. 5 PERINTHALMANNA MUNICIPALITY REPRESENTED BY ITS SECRETARY, PERINTHALMANNA P.O., MALAPPURAM DISTRICT - 679 322.

SMT.PREETHA K.K., SR.GP, SRI.P.C.SASIDHARAN, SC, SRI.VISHNU S.CHEMPAZHANTHIYIL, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

MOHAMMED NIAS C.P., J.

----- WP(C)No.28189 of 2022
----- Dated this the 31st day of July, 2024

JUDGMENT

The petitioner challenges Ext.P2, an order passed in an application preferred by the petitioner in Form 5 of the Kerala Conservation of Paddy Land and Wetland Act and Rules, 2008 (for short, the Act and the Rules). A reading of Ext.P2 shows that it is a non-speaking order without consideration of any relevant materials.

2. Heard the learned counsel for the petitioner and learned Government Pleader.

2. Going by the provisions of the Kerala Conservation of

Paddy Land and Wetland Act, 2008, paddy land is defined as all types of land situated in the State where paddy is cultivated at least once in a year or suitable for paddy cultivation but uncultivated and left fallow, and includes its allied constructions -3-

like bunds, drainage channels, ponds and canals. As per Sec.5(4), the Local Level Monitoring Committee have the power to prepare the data bank with the details of the cultivable paddy land and wetland, within the area of jurisdiction of the Committee, with the help of the map prepared or to be prepared by the State Land Use Board or Centre-State Science and Technology Institutions on the basis of satellite pictures by incorporating the survey numbers and extent in the data-bank

and get it notified by the concerned Panchayat/Municipality/Corporation, in such manner. A reading of the above would show that what is to be included in a data bank are the details of the cultivable paddy land and wetland. Of course, taking note of the definition of paddy land as mentioned above, such an exercise to find out whether a property is a paddy land or whether it is cultivable or non-cultivable has to be ascertained taking into account the natural features of the land whether it is fit for cultivation or not. The most relevant aspect therefore is to find whether the land is fit for paddy cultivation.

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3. There is no finding at all in the impugned order that

holds whether the land in question is fit for paddy cultivation or not. In view of the above, I have no hesitation to quash Ext.P2 and direct the respondents to reconsider the Form 5 application submitted by the petitioner strictly in terms of the Act and the Rules, the KSREC report and in the light of the observations made above. The petitioner is directed to make available a copy of the KSREC report, which shall be produced before the third respondent. The third respondent shall reconsider the application afresh in the light of the KSREC report and also the report the Agricultural Officer within a period of three months from the date of receipt of the KSREC report, as directed above. Ext.P2 is quashed.

The Writ Petition is allowed as above. Sd/- MOHAMMED NIAS C.P. JUDGE
dlk/31.7.2024 -5- APPENDIX OF WP(C) 28189/2022 PETITIONER'S EXHIBITS
EXHIBIT P1 TRUE COPY OF THE SETTLEMENT DEED NO.4517/2013 OF SUB
REGISTRAR'S OFFICE, PERINTHALMANNA.

EXHIBIT P2

TRUE COPY OF THE ORDER DATED EXH

MALAPPURAM.

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