

**Anna vs Sub Collector**

**Anna vs Sub Collector**

**SooperKanoon Citation :** [sooperkanoon.com/1399407](https://sooperkanoon.com/1399407)

**Court :** Kerala

**Decided On :** Oct-19-2023

**Judge :** Honourable Mr. Justice Bechu Kurian Thomas

**Appeal No. :** WP(C)/34584/2023

**Appellant :** ANNA

**Respondent :** Sub Collector

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 19TH DAY OF OCTOBER 2023 / 27TH ASWINA, 1945 PETITIONERS : 1 ANNA, AGED 63 YEARS, W/O JOSEPH, CHANDRANKUNNATH HOUSE, NETTISSERI P.O, THRISSUR, PIN - 680 651 2 JOSEPH, AGED 65 YEARS, S/O VARKEY, CHANDRANKUNNATH HOUSE, NETTISSERI P.O, THRISSUR, PIN - 680 651 BY ADVS. O.A.NURIYA REVATHY P. MANOHARAN ANAND B. MENON NABIL KHADER RESPONDENT : SUB COLLECTOR, THRISSUR, CIVIL LANE, CIVIL LANE ROAD, AYYANTHOLE, THRISSUR, PIN - 680 003 BY SMT.K.AMMINIKUTTY, SENIOR GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL)

HAVING COME UP FOR ADMISSION ON 19.10.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

----- W.P.(C) No.34584 of 2023 -----

----- Dated this the 19th day of October, 2023 -----

## **JUDGMENT**

Petitioner is the owner of 0.0202 Hectares of property in Survey No.239/1 of Ollukara Village, Thrissur Taluk, Thrissur District. Challenge is against Ext.P1 order of the Sub Collector, Thrissur, whereby petitioners request to remove her land from the data bank stands rejected.

2. Petitioner alleges that her land was converted prior to the enactment

of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (for short, the Act) and that it is a 'dry land'. However, when the data bank was prepared under Section 5(4)(i) of the Act, her land was wrongly included in it. Since petitioner requires the land for other purposes, she submitted Form-5 application, invoking Rule 4(4d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 (for short, the Rules).

3. By the impugned order, petitioners application was rejected by the

Sub Collector based on the report of the Agricultural Officer. Petitioner alleges that the application was rejected without even a site inspection or any application of mind and is hence not a speaking order.

4. I have heard Smt.Nuriya, learned counsel for the petitioner and Smt. K.Amminkutty, the learned Senior Government Pleader and have also perused Ext.P1 order passed by the Sub Collector.

5. Petitioners application in Form 5 of the Rules was rejected relying on

the Agricultural Officers report dated 04.05.2023. The said report stated that petitioners land need not be excluded from the data bank. Petitioner relies upon the KSREC report produced as Ext.P2 and asserts that the surrounding areas are well-developed with buildings on them and also that the impugned

**order has not referred to the suitability for cultivation as a paddy land.**

6. In the decision in Arthasasthra Ventures (India) LLP v. State of

Kerala [2022 (7) KHC 591] and in Muraleedharan Nair R. v. Revenue Divisional Officer [2023 (4) KHC 524], this Court had observed that the RDO cannot merely follow the report of the Agricultural Officer or the LLMC without any independent assessment of the status of the land. This Court had also observed that while considering an application filed under Form 5, the Authority must consider whether the removal of the property from the data bank will affect paddy cultivation in the land and also whether it will affect the nearby paddy fields. Similarly, in the decision in Aparna Sasi Menon v. Revenue Divisional Officer Irinjalakuda [2023 (6) KHC 83] it has been observed that when the competent authority considers a Form-5 application, the predominant consideration should be whether the land which is sought to be excluded from data bank is one where paddy cultivation is possible and feasible including the existence of irrigation facilities.

7. A perusal of the impugned order reveals that the aforementioned

specific aspects have not been adverted to, and instead, the application has been rejected solely on the basis of the report of the Agricultural Officer. There is also no finding that the land is suitable for paddy cultivation and whether there is any paddy land suitable for cultivation in the nearby areas. Evidently, there is no independent application of mind to the relevant circumstances, and hence, the impugned order is liable to be set aside and a fresh consideration be made.

8. In the above circumstances, Ext.P1 is quashed and the respondent is

directed to reconsider the Form 5 application submitted by the petitioner and issue orders afresh after considering the report of KSREC and other relevant factors

stipulated in Rule 4(4f) of the Rules. The order, as directed above, shall be issued within a period of two months from the date of receipt of a copy of this Judgment.

The writ petition is allowed as above. Sd/- BECHU KURIAN THOMAS, JUDGE  
RKM APPENDIX OF WP(C) 34584/2023 PETITIONER'S EXHIBITS : Exhibit P1  
TRUE COPY OF ORDER NUMBER D8-17207/21 OF SUB COLLECTOR DATED  
14.09.2023 Exhibit P2 TRUE COPY OF KSREC REPORT DATED NIL Exhibit P3  
TRUE COPY OF THE PHOTOGRAPHS OF ADJACENT LANDS AND LANDS OF  
PETITIONER

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**