

Rani George Vs. The District Collector

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Court : Kerala

Decided On : Jul-16-2015

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Rani George

Respondent : The District Collector

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN THURSDAY, THE 16TH DAY OF JULY 2015 25TH ASHADHA, 1937 WP(C).No. 15501 of 2015 (K) ----- PETITIONER : ----- RANI GEORGE WIFE OF T.J.GEORGE, AGED 50 YEARS RESIDING AT THUMBASSERY HOUSE KOOROPPADA P.O., KOTTAYAM-686502. BY ADVS.SRI.G.HARIHARAN SRI.PRAVEEN H. RESPONDENTS : ----- 1. THE DISTRICT COLLECTOR CIVIL STATION, KAKKANAD, ERNAKULAM-682030.

2. THE TAHSILDAR, KANAYANNOOR TALUK, ERNAKULAM-682313.

3. THE VILLAGE OFFICER, ELAMKULAM VILLAGE, ERNAKULAM DISTRICT-682020.

4. THE LOCAL LEVEL MONITORING COMMITTEE, (CONSTITUTED UNDER S.5 OF THE KERALA CONSERVATION OF PADDY AND WET LAND ACT, 2008) REPRESENTED BY ITS CONVENOR THE AGRICULTURAL OFFICER, CIVIL

STATION, KAKKANAD, ERNAKULAM-682 030.

5. THE REVENUE DIVISIONAL OFFICER, ERNAKULAM-680 211. R1 TO R5 BY ADDL. ADVOCATE GENERAL SRI. K.A. JALEEL BY GOVT. PLEADER SRI. JOE KALLIATH THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Mn ...2/- WP(C).No. 15501 of 2015 (K)

----- APPENDIX PETITIONERS' EXHIBITS :
----- EXT.P1 TRUE COPY OF THE SALE DEED REGISTERED AS DOCUMENT NO. 3481/2012 OF SRO ERNAKULAM IN FAVOR OF THE PETITIONER. EXT.P2 TRUE COPY OF THE BASIC TAX RECEIPT OF THE PROPERTY MENTIONED IN EXHIBIT P1 EVIDENCING MUTATION OF THE PROPERTY IN THE NAME OF THE PETITIONER. EXT.P3 TRUE COPY OF THE BASIC TAX REGISTER FOR THE PROPERTY IN SY.NO.140/1. EXT.P4 TRUE COPY OF THE BASIC TAX REGISTER FOR THE PROPERTY IN SY.NO.141/1. EXT.P5 TRUE COPY OF THE RELEVANT EXTRACT OF THE DATA BANK PREPARED UNDER THE KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT, 2008 WITH REGARD TO THE PROPERTIES MENTIONED IN EXHIBIT P1 BELONGING TO THE PETITIONER. EXT.P6 TRUE COPY OF THE REPRESENTATION DATED 12/04/2015 MADE BY THE PETITIONER TO THE 4TH RESPONDENT. EXT.P7 TRUE COPY OF THE REQUEST FOR RECORDING CONVERSION OF THE LAND MADE BY THE PETITIONER BEFORE THE 5TH RESPONDENT. EXT.P8 TRUE COPY OF THE GOVERNMENT

ORDER

G.O.(RT) NO.157/2012/AD DATED 05/02/2002 PROVIDING GUIDELINES FOR CONSIDERING AN APPLICATION FOR CONVERSION UNDER THE KLU

ORDER

. RESPONDENT(S)' EXHIBITS : NIL -----
//TRUE COPY// P.S. TO JUDGE Mn K. Vinod Chandran, J
----- W.P.(C).No.15501 of 2015-K
----- Dated this the 16th day of July, 2015

JUDGMENT

The petitioner is the owner of 10.613 Ares of land in Survey Nos.140/1 and 141/1 of Elamkulam Village, Kanayannur Taluk, Ernakulam District, which is said to be 'purayidam' but however described in the revenue records as 'nilam'. The petitioner contends that even in the Draft Data Bank prepared under the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as the 'Paddy Land Act') the property is shown as converted land.

2. The Supreme Court in RDO v. Jalaja Dileep [2015(2) KHC109SC)] considered the issue of rectification of description in the Basic Tax Register and held that the same is not permissible. However, with respect to conversion and utilisation of lands which are not covered or were converted prior to bringing into force of the Paddy Land WP(C).No.15501 of 2015 - 2 - Act it was held so in paragraphs 17 and 23, which are extracted hereunder:

"7. "Paddy land" and "Wetlands" are defined under Sections 2 (xii) and 2 (xviii) of the Act respectively. As per Section 5(4), the Committee shall interalia prepare a data Bank with details of cultivable paddy land within the jurisdiction of the Committee. If the land is not included in the Data Bank or Draft Data Bank prepared under the Kerala Cultivation of Paddy Land and Wetland Act, 2008 and if it is not a "Paddy Land" or "Wetland" as defined under Act 28 of 2008, at the time of commencement of the Act 12 of 2008 and the classification of land is noted as "Nilam" in the revenue records, the provision of Kerala Land Utilization Order 1967 will be applicable to such land and the Collector as defined in clause 2(a) of KLU Order 1967 has the power to grant permission to utilize the land for other purposes. As stated in clause 2(a) of KLU Order, Collectors shall examine such request for residential purpose, on merits on a case to case basis. However, with a view to prevent indiscriminate filling of Paddy Lands in the State, the Government have also prescribed certain restrictions in the Notification dated 5.2.2002 noted (supra), in which District Collectors have been directed interalia to ensure that the conversions which are likely to render irrigation investments infructuous and large scale conversion for commercial purpose are not allowed. xxx xxx xxx 23. The respondents in all the appeals are directed to approach the competent authorities

constituted under KLU Order 1967/ Kerala Conservation of Paddy Land and Wetland Act 2008 as the case may be for conversion of the land. When the respondents approach the concerned authorities constituted under the above statutes, the concerned authorities shall consider the application of the respondents in WP(C).No.15501 of 2015 - 3 - accordance with the relevant provisions of the statutes and also the notification G.O.(Rt).No.157/2002/Ad dated 5.2.2002 already extracted above in para 11 and in accordance with law keeping in view the factual position that may be brought to the notice of the authorities along with material to substantiate their claim. In the facts and circumstances of the case, we make no order as to costs." 3. In such circumstances, no rectification of the Basic Tax Register could be made. The petitioner has a contention that the land though included in the Data Bank prepared under the Paddy Land Act for the area, the Data Bank itself indicates it to have been converted 10 years back, i.e., prior to the Act of 2008. The petitioner then has to approach the appropriate authority under the Kerala Land Utilisation Order 1967 for changed utilisation of the land. Such an application is filed at Ext.P3. If the property is found to be utilised for a different purpose prior to the Paddy Land Act, the consideration shall be made, if necessary, after a physical inspection and concluded by a speaking order within two months from the date of production of the certified copy of this judgment, in accordance with Puthan Purakkal WP(C).No.15501 of 2015 - 4 - Joseph v. Sub Collector [2015 (3) KLT182. Subsequent to such a finding the petitioner could also approach the appropriate authority under the Kerala Land Tax Act for fresh assessment of the land, as directed to be utilised under the KLU order, as has been held in Kizhakkambalam Grama Panchayath V. Mariumma [2015 (2) KLT516. Writ Petition is disposed of. Sd/- K.Vinod Chandran Judge. vku/- [true copy]