

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

MONDAY, THE 28TH DAY OF MARCH 2022 / 7TH CHAITHRA, 1944

WP(C) NO.1206 OF 2022

PETITIONER :-

SREE NARAYANA INSTITUTE OF MEDICAL SCIENCES (MEDICAL COLLEGE) REPRESENTED BY THE SECRETARY,
GURUDEVA CHARITABLE TRUST,
CHALAKKA, NORTH KUTHIYATHODU P.O.,
ERNAKULAM - 683 594.

BY ADV GIKKU JACOB

RESPONDENTS :-

- 1 THE DISTRICT COLLECTOR
ERNAKULAM, CIVIL STATION, ERNAKULAM - 682 030.
- 2 THE TAHSILDAR (LR),
TALUK OFFICE, NORTH PARAVOOR, ERNAKULAM - 682 513.
- 3 THE VILLAGE OFFICER,
PUTHENVELIKKARA VILLAGE, ERNAKULAM - 683 594.

BY SMT.VINITHA B, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28.03.2022, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 28th day of March, 2022

This writ petition is filed seeking the following reliefs :-

- "i. issue a writ of certiorari or any other appropriate writ, order or direction to quash Ext.P6 order no.1-4360/2020 dated 27.12.2021 of the 2nd respondent.
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 2nd respondent Tahsildar (LR), North Paravur to reconsider Ext.P2 application along with Ext.P5 application in Form A and to pass orders forthwith in the light of the decisions of this Hon'ble Court in Local Level Monitoring Committee, Kizhakkambalam Grama Panchayat & others v. Mariumma and another [2015 (2) 516], District Collector, Ernakulam v. Fr.Jose Uppani and others [2020 (4) KLT 612], Tahsildar Thodupuzha Taluk and another v. Renjith George [2020 (2) KLT 13] to make necessary additions and corrections in the BTR and other revenue records for the properties covered by Ext.P1 order and to cause fresh assessment of land tax accordingly."

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

3. It is submitted that the petitioner had obtained Ext.P1 order from the District Collector under the Kerala Land Utilization Order. It is submitted that thereafter, the petitioner had made Ext.P2 application accompanied by due applications in the

prescribed form for correction/additions in the Basic Tax Register by entering the property of the petitioner as purayidom/dry land/garden land and seeking the reassessment of tax in terms of Section 6A of the Kerala Land Tax Act. It is submitted that the 2nd respondent had passed Ext.P6 order, wherein it was ordered to maintain the nature of the land as 'nilam' and to make an addition in the remark column in the BTR that the District Collector had passed an order granting permission to convert the land subject to conditions.

4. The learned counsel for the petitioner submits that the issue stands squarely covered by the decisions of this Court in **Fr.Jose Uppani and others v. District Collector, Ernakulam and others** [2020 (3) KLT 492] and of a Division Bench of this Court in **District Collector, Ernakulam and others v. Fr.Jose Uppani and others** [2020 (4) KLT 612] as well as the decision of this Court in **Iype Varghese v. Revenue Divisional Officer, Idukki and others** [2020 (5) KLT 403]. It is submitted that the 2nd respondent is duty bound to consider Ext.P2 request as well as the application preferred by the petitioner in due form and to record the conversion of land, exercising powers under Section 6A of the Kerala Land Tax Act. It is submitted that necessary additional

entries will have to be made in the Basic Tax Register maintained in terms of Rule 4 of the Kerala Land Tax Rules to show the change in nature of the land as 'garden land or purayidom' and a reassessment will have to be effected in respect of the properties in question.

5. The learned counsel for the petitioner would further submit that the entry to be made in the revenue records should not be as 'converted land' since there is no such classification of land as provided in the relevant enactments or even in terms of the revenue manual and that in view of the conversion duly carried out by the petitioner, the land should be shown as 'garden land/dry land/ purayidom' in the altered Basic Tax Register.

6. Having considered the contentions advanced and after considering the decisions of this Court, I am of the opinion that the challenge raised by the petitioner as against Ext.P6 order by the 2nd respondent is sustainable and is liable to be allowed.

In the result, Ext.P6 order is set aside. There will be a direction to the 2nd respondent to consider Ext.P2 request and the application submitted by the petitioner in due form and to effect the alterations by additional entries in the Basic Tax Register to show the change in nature of the land as 'purayidom/dry land/garden land' and to reassess the properties accordingly. The

necessary shall be done by the 2nd respondent within a period of six weeks from the date of receipt of a copy of this judgment. Appropriate follow up action for effecting the changes in the Basic Tax Register shall be carried out by the 3rd respondent, in accordance with law, thereafter.

This writ petition is ordered accordingly.

**Sd/-
ANU SIVARAMAN
JUDGE**

Jvt/31.3.2022

APPENDIX OF WP(C) 1206/2022

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ORDER NO. I 43862/07 DATED 22.08.2007 ISSUED BY THE DISTRICT COLLECTOR, ERNAKULAM.
- Exhibit P2 TRUE COPY OF THE APPLICATION DATED 26.11.2019 SUBMITTED TO THE TAHSILDAR (LR), PARAVUR, BY THE SECRETARY, GURUDEVA CHARITABLE TRUST.
- Exhibit P3 TRUE COPY OF THE JUDGMENT DATED 10.01.2020 IN WPC NO. 33670/2020 OF THE HIGH COURT OF KERALA.
- Exhibit P4 TRUE COPY OF THE JUDGMENT DATED 31.08.2021 IN WPC NO. 15479/2021 OF THE HONBLE HIGH COURT OF KERALA.
- Exhibit P5 TRUE COPY OF THE APPLICATION DATED 18.12.2021 IN FORM 6 SUBMITTED BEFORE THE 2ND RESPONDENT BY THE PETITIONER.
- Exhibit P6 TRUE COPY OF THE ORDER IN PROCEEDINGS NO. D 1-4360/2020 DATED 27.12.2021 OF THE 2ND RESPONDENT.