

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

TUESDAY, THE 17TH DAY OF JANUARY 2023 / 27TH POUSHA, 1944

WP(C) NO. 1572 OF 2023

PETITIONER

C M JIBIN, S/O.MUHAMMED

AGED 36 YEARS

CHERUPURATH HOUSE, KUTTILANJI, PANIPRA P.O., ERNAKULAM
DISTRICT, PIN - 686692

BY ADV T.K.AJITHKUMAR (VALATH)

RESPONDENTS:

- 1 REVENUE DIVISIONAL OFFICER, MUVATTUPUZHA
OFFICE OF THE REVENUE DIVISIONAL OFFICE,
MUVATTUPUZHA P.O., PIN - 686661
- 2 LOCAL LEVEL MONITORING COMMITTEE OF NELLIKUZHAY GRAMA
PANCHAYAT
REPRESENTED BY THE CONVENER/AGRICULTURAL OFFICER,
LOCAL LEVEL MONITORING COMMITTEE,
NELLIKUZHAY GRAMA PANCHAYAT, NELLIKUZHAY, PIN - 686691
- 3 AGRICULTURAL OFFICER
KRISHI BHAVAN, NELLIKUZHAY GRAMA PANCHAYAT, NELLIKUZHAY,
PIN - 686691
SMT.DEEPA NARAYANAN SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 17th day of January, 2023

The petitioner, who is owner of 27.38 Ares of land in Eramalloor Village of Kothamangalam Taluk in Ernakulam District, has filed this writ petition seeking to direct the 1st respondent to consider and pass orders on Ext.P2 application within a time frame to be fixed by this Court.

2. The petitioner states that he is owner of 27.38 Ares of land situated in Survey Nos. 284/11-1-3, 284/14-2 and 285/4-2 of Eramalloor Village, Kothamangalam Taluk in Ernakulam District. The land is garden land. It is not cultivated with paddy. It is not fit for paddy cultivation either. However, the land is included in the Data Bank and is described as paddy land in Revenue records also.

3. The petitioner wants to use the land for other purposes. Hence, the petitioner filed Ext.P2 application in Form-

5, invoking Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application was filed on 05.09.2022. The application is not disposed of so far. Unless the application is considered expeditiously, the petitioner will be put to untold hardship and loss, contends the petitioner.

4. The Government Pleader representing the respondents resisted the writ petition. The Government Pleader controverted all material allegations made by the petitioner, in the writ petition. The Government Pleader, however, submitted that since the petitioner has invoked a statutory remedy under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008, the application submitted by the petitioner can be considered by the competent authority in accordance with law, provided the application is received, is complete in all respects and is supported by all necessary documents.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader representing the

respondents.

6. The petitioner is owner of 27.38 Ares of land situated in Survey Nos. 284/11-1-3, 284/14-2 and 285/4-2 of Eramalloor Village, Kothamangalam Taluk in Ernakulam District. The land is included in the Data Bank of paddy land and wetland prepared under Section 5(4)(i) of the Kerala Conservation of Paddy Land and Wetland Act, 2008. According to the petitioner, the land owned by him is neither paddy land nor wetland. The land is not suitable for paddy cultivation. The petitioner wants to use the land for other purposes and hence he has filed an application in Form-5 seeking to remove the land from Data Bank.

7. The Form-5 application has been filed by the petitioner invoking his statutory right under Rule 4(d) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008. The application being a statutory application, the competent authority has a legal duty to consider the application in

accordance with law, within a reasonable time.

The writ petition is therefore disposed of directing the 1st respondent-Revenue Divisional Officer to consider Ext.P2 Form-5 application submitted by the petitioner if the same is received, supported by all requisite documents and paying prescribed fee, if any, and to pass orders thereon in accordance with law, within a period of two months.

sd/-

N.NAGARESH
JUDGE

hmh

APPENDIX OF WP(C) 1572/2023

PETITIONER EXHIBITS

Exhibit P1	THE TRUE COPY OF THE LAND TAX DATED 10-1-2023 ISSUED FROM THE OFFICE OF THE ERAMALLOORE VILLAGE OFFICE
Exhibit P2	THE TRUE COPY OF THE APPLICATION DATED 5-9-2022 IN FORM NO.5, SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT
Exhibit P3	THE TRUE COPY OF THE LETTER DATED 5-9-2022 ISSUED BY THE 1ST RESPONDENT