

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

MONDAY, THE 19TH DAY OF JUNE 2023 / 29TH JYAISHTA, 1945

WP(C) NO. 17029 OF 2023

PETITIONER:

REJI
AGED 54 YEARS, S/O. THANKAPPAN,
AACHAKOTTEL HOUSE, NILAMBUR,
MALAPPURAM DISTRICT - 679330.

BY ADV K.ABOOBACKER SIDHEEQUE

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER,
PERINTHLAMANNA
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
PERINTHLAMANNA P.O, MALAPPURAM - 679322.
- 2 THE THAHASILDAR
NILAMBUR, TALUK OFFICE, NILAMBUR.P.O,
MALAPPURAM DISTRICT - 679329.
- 3 THE VILLAGE OFFICER
NILAMBUR VILLAGE OFFICE, NILAMBUR P.O,
MALAPPURAM DISTRICT - 679329.
- 4 THE AGRICULTURAL OFFICER FOR THE NILAMBUR GRAMA
PANCHAYAT, AGRICULTURE OFFICE, NILAMBUR P.O,
MALAPPURAM DISTRICT - 679329.

BY ADV.DEVISREE, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19.06.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

Dated this the 19th day of June, 2023

The petitioner states that he is the absolute owner and in possession of 0.1618 Hectare of land comprised in Block No.92, Re-Survey Nos.289/1-15 and 289/1-16 in Nilambur Village, Nilambur Taluk in Malappuram District. Though plot is a garden land, it is wrongly Included in the Data Bank. Since the plot is wrongly included in the Data Bank, the petitioner cannot use the land for any other useful purpose.

2. The petitioner therefore submitted an application in Form-5 before the 1st respondent seeking to remove the property from the Land Data Bank for the Nilambur Grama Panchayat. Rules 4(4)(d), (e) and (f) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 make provision for consideration of such applications. But, without adhering to the legal provisions, the application submitted by the petitioner was rejected as per

Ext.P2 order. Ext.P2 is vitiated by arbitrariness, contends the petitioner.

3. Government Pleader entered appearance and resisted the writ petition. The Government Pleader pointed out that Ext.P2 order has been passed based on a report dated 20.12.2022 of the Agricultural Officer, Nilambur.

4. The Agricultural Officer found that the area is a waterlogged area. The Agricultural Officer further found that the District Collector had earlier pointed out that conversion of the land is likely to have adverse consequences. The petitioner has not advanced any reason to unsettle the decision in Ext.P2. The writ petition is liable to be dismissed, contended the Government Pleader.

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

6. The specific case of the petitioner is that 0.1618 Hectare of land held by the petitioner in Nilambur Village of

Nilambur Taluk is not a paddy land. The land was converted much prior to the year 2008. The petitioner has produced Ext.P3 photograph to show that there are standing coconut trees in the property planted about 30 years ago and at any rate before the year 2008.

7. I have perused the order passed by the Sub Collector, Perinthalmanna. The Sub Collector has rejected the application of the petitioner solely relying on the report of the Agricultural Officer. Ext.P2 does not state anything about the assessment of the matter by the Local Level Monitoring Committee. The Sub Collector has entirely relied on the report submitted by the Agricultural Officer. Ext.P3 photograph produced by the petitioner would show that there are coconut trees which are planted there long years ago. Ext.P2 does not disclose any site inspection.

8. In the afore circumstances, it would have been advisable for the Sub Collector to obtain a KSREC Report before passing final order in the matter. Ext.P2 order is cryptic and

cannot stand the scrutiny of law.

The writ petition is therefore disposed of setting aside Ext.P2 and directing the Sub Collector, Perinthalmanna to reconsider the matter in accordance with law. If the petitioner makes an application and pays the requisite fee for KSREC Report within a period of two weeks, the Sub Collector shall consider the KSREC Report also and pass orders afresh within a period of two months from the date of receipt of the KSREC Report.

Sd/-

**N. NAGARESH
JUDGE**

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APPENDIX OF WP(C) 17029/2023

PETITIONER EXHIBITS

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| Exhibit-P1 | A TRUE COPY OF THE LAND TAX PAID RECEIPT
DATED 20.09.2022 ISSUED BY THE VILLAGE
OFFICER, NILAMBUR VILLAGE, MALAPPURAM
DISTRICT. |
| Exhibit-P2 | A TRUE COPY OF THE ORDER DATED 08.05.2023
ISSUED BY THE FIRST RESPONDENT. |
| Exhibit-P3 | A TRUE PHOTOGRAPH OF THE PROPERTY. |