

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 16TH DAY OF NOVEMBER 2017/25TH KARTHIKA, 1939

WP(C).No. 36830 of 2017 (C)  
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PETITIONER(S):  
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A.B.REETHA,  
W/O. KRISHNAKUMAR,  
AGED 47 YEARS, VAKAPADAM CALAM,  
NALLEPILLY P.O., PALAKKAD DISTRICT, 678553.

BY ADVS.SRI.BINOY VASUDEVAN  
SMT.P.G.BABITHA

RESPONDENT(S):  
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THE LOCAL LEVEL MONITORING COMMITTEE FOR CHITTUR  
THATHAMANGALAM MUNICIPALITY,  
REPRESENTED BY ITS CONVENOR, THE AGRICULTURAL OFFICER,  
KRISHI BHAVAN, THATHAMANGALAM P.O.,  
PALAKKAD DISTRICT-678101.

BY GOVERNMENT PLEADER SRI.RAVI KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 16-11-2017,ALONG WITH WPC.NO.36852/2017 AND CONNECTED  
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 36830 of 2017 (C)  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- EXHIBIT P1** TRUE COPY OF DOCUMENT NO.1420/2005 OF S. R. O. CHITTUR.
- EXHIBIT P2** TRUE COPY OF THE POSSESSION CERTIFICATE IN RESPECT OF THE PETITIONER'S PROPERTY.
- EXHIBIT P3** TRUE COPY OF THE LAND TAX RECEIPT IN RESPECT OF THE PETITIONER'S PROPERTY.
- EXHIBIT P4** TRUE COPY OF THE PERMISSION ISSUED TO THE ADJACENT PROPERTY HOLDER SRI. A. B. HARIDAS, DATED 22.11.2016.
- EXHIBIT P4(A)** TRUE COPY OF THE PERMISSION ISSUED TO THE ADJACENT PROPERTY HOLDER SMT. T. A. JAYASREE DATED 22.11.2016.
- EXHIBIT P4(B)** TRUE COPY OF THE PERMISSION ISSUED TO THE ADJACENT PROPERTY HOLDER SRI. V. SREEDHARAN ON 22.11.2016.
- EXHIBIT P5** TRUE COPY OF THE RELEVANT PAGES OF THE DATA BANK.
- EXHIBIT P6** TRUE COPY OF THE ACKNOWLEDGEMENT ISSUED BY THE OFFICE OF THE RESPONDENT ACCEPTING THE APPLICATION.

**RESPONDENT(S)' EXHIBITS - NIL**  
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/TRUE COPY/

PS TO JUDGE

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**P.B.SURESH KUMAR, J.**

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**W.P.(C)Nos.36830, 36852, 36866,  
36886, 36932 & 36947 of 2017**  
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**Dated this the 16<sup>th</sup> day of November, 2017**

**J U D G M E N T**

The case of the petitioners in this batch of writ petitions is that the properties owned by them as referred to in the writ petitions were originally paddy lands, but converted as garden lands several years prior to the introduction of the Kerala Conservation of Paddy Land and Wetland Act, 2008 ('the Act'). It is alleged by the petitioners that though the properties were converted as garden lands prior to the introduction of the Act, the properties are included in the Data Banks prepared under the Act and as such, they are unable to make use of the

properties for other purposes including construction of buildings. It is alleged in some of the writ petitions that the building permits applied for by the petitioners therein are not being considered for the aforesaid reason. In some other writ petitions, it is alleged that the buildings constructed by the petitioners therein are not being numbered on account of the said reason. According to the petitioners, since the properties were converted prior to the Act, the same should not have been shown in the Data Bank. The petitioners have preferred applications before the Local Level Monitoring Committees concerned for correction of the entries relating to their properties in the Data Banks and the applications preferred by the petitioners for the said purpose are part of the records. The petitioners seek directions in these writ petitions to the Local Level Monitoring Committees concerned to correct the entries in the Data Banks in relation to their properties. They also seek orders for correction of the entry relating to their properties in the revenue records. Some of the petitioners, among others,

seek directions to the local authorities concerned to grant building permits applied for by them and some others seek directions to the local authorities concerned to assign numbers to the buildings constructed by them on the strength of the building permits issued to them.

2. Heard the learned counsel for the petitioners as also the learned Government Pleader.

3. If the properties of the petitioners are converted prior to the Act, the provisions of the Act would not apply to the same, as held by the Apex Court in **Revenue Divisional Officer v. Jalaja Dileep** (2015(1) KLT 984). But, the question whether the properties are converted prior to the Act as claimed by the petitioners is a matter to be considered by the Local Level Monitoring Committees at the first instance. It is all the more so since the Local Level Monitoring Committees are empowered to correct the mistake, if any, in the Data Bank. True, if the provisions of the Act would not apply to the properties of the petitioners, they are entitled to make use of the properties

for other purposes including construction of buildings, after obtaining permission of the competent authority under the Kerala Land Utilization Order [See **Puthan Purakkal Joseph v. Sub Collector** (2015(3) KLT 182)].

In the aforesaid facts and circumstances, the writ petitions are disposed of directing the Local Level Monitoring Committees concerned to consider and pass orders on the applications preferred by the petitioners for correction of the Data Bank, after obtaining reports from the Kerala State Remote Sensing and Environment Centre (KSRSEC) as to the position of the properties at the time of commencement of the Act. The petitioners shall pay the fees stipulated by the KSRSEC for issuing their report if directed so by the Conveners of the Local Level Monitoring Committees. Needless to say that in cases where reports have already been called for from the KSRSEC at the expense of the petitioners pursuant to the interim orders passed in the writ petitions, orders shall be passed on the strength of the said reports. The direction aforesaid shall be complied with,

within three months from the date of receipt of a copy of this judgment. If the requests made by the petitioners are allowed, they are entitled to prefer applications invoking Clause 6 of the Kerala Land Utilization Order before the competent authority viz, the District Collector/the Revenue Divisional Officer for permission to make use of the properties for other purposes, in cases where applications have not been filed by the petitioners for the said purpose and in that event, the competent authority under the Kerala Land Utilization Order shall pass orders on those applications within one month from the date of production of the decision of the Local Level Monitoring Committee and the application under the Kerala Land Utilization Order, wherever applicable, along with a copy of the writ petition, in the light of the decision of this Court in **Puthan Purakkal Joseph** (*supra*), untrammelled by Circular No.46848/P1/2016 dated 22.12.2016 issued by the Government. If the requests of the petitioners under Clause 6 of the Kerala Land Utilization Order are granted, the petitioners shall be issued building

permits or assigned building numbers, as the case may be, if they are otherwise entitled for the same, by the local authorities concerned. Needless to say that if the requests of the petitioners under Clause 6 of the Kerala Land Utilization Order are granted, they will also be entitled to move the authorities under the Kerala Land Tax Act for fresh assessment of the lands as garden lands and if such requests are made by the petitioners, the same shall also be considered by the said authorities, in the light of **Kizhakkambalam Grama Panchayat v. Mariumma** (2015(2) KLT 516), within one month from the date of their respective requests.

rsr

Sd/-  
**P.B.SURESH KUMAR**  
**JUDGE**