



2023:KER:31817

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

FRIDAY, THE 9TH DAY OF JUNE 2023 / 19TH JYAISHTA, 1945

WP(C) NO. 18521 OF 2023

PETITIONER:

K.R SANTHOSH
AGED 55 YEARS
KURUPPAMPARAMBATHU HOUSE, CHIYYARAM., PIN - 680026
BY ADVS.
MATHEW THOMAS
ANAND KRISHNA

RESPONDENTS:

- 1 REVENUE DIVISIONAL OFFICER
COLLECTORATE, THRISSUR., PIN - 680003
- 2 TAHSILDAR (LAND RECORDS)
TALUK OFFICE, PALACE ROAD, THRISSUR., PIN - 680020
- 3 VILLAGE OFFICER
VILLAGE OFFICE ROAD, CHIYYARAM, THRISSUR., PIN - 680026

SMT.DEVISREE-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

Dated this the 9th day of June, 2023

The petitioner is before this Court aggrieved by the omission of the 2nd respondent-Tahsildar in entertaining an application submitted by the petitioner for re-assessment of rate of Basic Tax of his land and for making necessary entries in the Basic Tax Register.

2. The petitioner is owner of 0.1817 Hectare of property in Old Survey No.59/PT4 of Chiyyaram Village in Thrissur District. The property in question was purchased in the year 1997. The predecessor-in-interest of the land approached the 1st respondent-Revenue Divisional Officer invoking the provisions of the Kerala Land Utilisation Order, 1967 seeking to permit him to use the land for non-agricultural purposes. The Revenue Divisional Officer passed Ext.P3 order under Clause 6 of the Kerala Land Utilisation Order, 1967 permitting to use the

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land for non-agricultural purposes.

3. The grievance of the petitioner is that even though Ext.P3 order was passed under the Kerala Land Utilisation Order, 1967 in the year 1996, the land is not re-assessed for fixing rate of Basic Tax and the property of the petitioner is still described as paddy land in the Revenue records. The petitioner submitted Ext.P5 application invoking Section 6(3) of the Kerala Land Tax Act, 1961 seeking to re-assess the Basic Tax and to make necessary entries in the Basic Tax Register. The Tahsildar, however, has not passed any orders on the application. Hence, the petitioner has approached this Court.

4. Government Pleader entered appearance on behalf of the respondents and resisted the writ petition. The Government Pleader controverted all the material allegations made by the petitioner in the writ petition. It is submitted that Ext.P3 proceedings are of the year 1996. The veracity and the genuineness of Ext.P3 proceedings under the Kerala Land Utilisation Order, 1967 are liable to be verified. The present

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status of the land will also have to be ascertained, before re-assessment of Basic Tax under the Kerala Land Tax Act, 1961.

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

6. This Court has considered the issue of reassessment of land tax on the basis of the orders obtained under the Kerala Land Utilisation Order, 1967 in the judgment in **Mary Abraham v. State of Kerala and others** [2020 (4) KLT 448]. This Court held that once enabling order is passed under Rule 6(2) of the Kerala Land Utilisation Order, 1967 permitting conversion of the land, then the earlier entries in the BTR showing the land as Nilam, Paddy Land, etc. will become superfluous and redundant and the competent Revenue officials like the Tahsildar are obliged under law to make a fresh assessment of the property under Section 6A of the Kerala Land Tax Act, 1961.

7. A Division Bench of this Court also considered the issue in **District Collector, Ernakulam and others v. Fr. Jose**

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Uppani and others [2020 (4) KLT 612] and the Division Bench held that when an applicant has secured orders under the Kerala Land Utilisation Order prior to the cut-off date on which Section 27A was introduced to the Kerala Conservation of Paddy Land and Wetland Act, 2008, the competent Revenue officials are bound to consider the subsequent application submitted under the provisions of the Kerala Land Tax Act, 1961.

8. As the nature of the land of the petitioner has been permitted to be changed pursuant to passing of a statutory order under the Kerala Land Utilisation Order, 1967, the competent authority is bound to re-assess the rate of Basic Tax in respect of the land and to make necessary entries in the Basic Tax Register, if necessary, after verifying the veracity/genuineness of the permission obtained under the Kerala Land Utilisation Order, 1967 produced by the petitioner.

The writ petition is therefore allowed. The 2nd respondent-Tahsildar is directed to consider Ext.P5 Form-A application

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submitted by the petitioner, in accordance with law, and pass appropriate orders thereon within a period of one month.

Sd/-

**N. NAGARESH
JUDGE**

hnh



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APPENDIX OF WP(C) 18521/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE REGISTERED SALE DEED NO. 3417 OF 1997 DATED 20.06.1997 OF THRISSUR SRO.
- Exhibit P2 TRUE COPY OF THE TAX PAID RECEIPT OF THE LAND DATED 11.04.2023 BEARING NUMBER KL08015701762/2023
- Exhibit P3 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT RDO ISSUED UNDER CLAUSE 6 OF THE KLU ORDER, 1967 DATED 18.07.1996 BEARING FILE NUMBER K.DIS. 263/96/D1 SANCTIONING THE CONVERSION OF THE LAND
- Exhibit P4 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT RDO DATED 24.03.2023 IN FILE NUMBER 586/2023
- Exhibit P5 TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT TAHSILDAR UNDER FORM A OF THE KERALA LAND TAX RULES, 1972 DATED 25.04.2023
- Exhibit P5(a) TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER ALONG WITH THE APPLICATION UNDER FORM A, TO THE 2ND RESPONDENT TAHSILDAR DATED 27.04.2023
- Exhibit P6 TRUE COPY OF THE RECEIPT ISSUED BY THE 2ND RESPONDENT TAHSILDAR ACKNOWLEDGING RECEIPT OF THE EXT. P5 AND EXT. P5(A) DATED 27.04.2023 BEARING NUMBER BIO-531894/23E