

(2023) 09 KL CK 0041

In the High Court Of Kerala

Case No : Writ Petition (C) No. 29359 Of 2023

Suresh P D

APPELLANT

Vs

District Collector Civil Station, Wayanad Road, Eranhippalam,
Kozhikode, Pin 673020

RESPONDENT

Date of Decision : 07-09-2023

Acts Referred:

Kerala Conservation of Paddy Land and Wetland Rules, 2008 — Rule 4(d)

Citation : (2023) 09 KL CK 0041

Hon'ble Judges : Bechu Kurian Thomas, J

Bench : Single Bench

Advocate : Shakthi Prakash, Amjatha D.A., Muhasin K.M., Farhana K.H., R. Devishri, Vishnu S Chempazhanthiyil

Final Decision : Disposed Of

Judgement

Bechu Kurian Thomas, J

1. Petitioner challenges Ext.P3 order issued by the 2nd respondent rejecting the application filed in Form 5 under Rule 4(d) of Kerala Conservation of Paddy Land and Wet Land Act and Rules 2008.

2. Petitioner is the owner of a property having a total extent of 3 Ares 23.76 sq.mtr. situated in Survey No.28/2.1 (1 Ares 20.45 sq.mtr.) and Survey No.28/35 (2 Ares 3.31 sq.mtrs.), of Koodathai Village in Thamarassery Taluk of Kozhikode District. According to the petitioner, the land was converted before 2008 and the same was shown as 'nanja' in the revenue records. Since the property was wrongly included in the data bank, Form 5 application was submitted to the 2nd respondent. Pursuant to the application, Ext.P3 order was issued by the 2nd respondent on 20.06.2023, rejecting the application for removing the property from the data bank.

3. I have heard Sri.Shakthi Prakash, the learned counsel for the petitioner as well as Smt.Devishri.R., the learned Government Pleader.

4. A perusal of Ext.P3 reveals that the 2nd respondent while considering the application has not verified the details and the nature of the land nor has any data been obtained from the KSREC. The order has been issued wholly relying upon the report of the Agricultural Officer, without any independent assessment. Without considering any of the details required under law, the 2nd respondent has issued the impugned order.

5. In the decision in *Muraleedharan Nair R. v. Revenue Divisional Officer* 2023 (4) KHC 534 this Court had specifically held that the Revenue Divisional Officer must independently assess the status of the land to arrive at a conclusion that the removal of the land from the data bank will adversely affect paddy cultivation. Such an independent assessment is not seen carried before issuing the impugned order. The data under the KSREC has also not been verified.

6. Having regard to the above noted circumstances, I am of the view that the impugned order was passed without any application of mind and without considering the relevant factors as laid down by this Court in various decisions. Therefore, I am satisfied that Ext.P3 is liable to be set aside.

7. Accordingly, I set aside Ext P3 and direct the 2nd respondent to re-consider the application submitted by the petitioner afresh, in the light of the observations of this Court in the decision in *Muraleedharan Nair* case (supra). A decision as directed shall be taken as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

The writ petition is disposed of.