IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 10TH DAY OF MARCH 2023 / 19TH PHALGUNA, 1944

WP(C) NO. 5757 OF 2023

PETITIONER:

DAYANANDAN
AGED 61 YEARS
S/O. KUNJAN, KURUPATH HOUSE,
MANALI P. O., PALAKKAD DISTRICT,
PIN - 678 014.

BY ADV BINOY VASUDEVAN

RESPONDENTS:

1 **THE TAHSILDAR (LAND RECORDS)**
CIVIL STATION, TALUK OFFICE,
PALAKKAD, PIN - 678 001.

2 **THE VILLAGE OFFICER**
PALAKKAD 3 VILLAGE
PALAKKAD, PIN - 678 001.

SRI. APPU.P.S - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 10th day of March, 2023

This writ petition is filed challenging Ext.P7 and seeking directions to the 1st respondent to consider and pass orders on the application preferred by the petitioner under Section 6A of the Kerala Land Tax Act, 1961. It is submitted that the petitioner is the owner in possession of 62.65 cents of dry land in Survey Nos.3242, 3244 and 3252 in Block No.75 of Palakkad 3 Village in Palakkad District. It is submitted that an order under Clause 6(2) of the Kerala Land Utilisation Order, 1967 had been issued in respect of the property on 05.11.1997 and the property had thereafter been converted and used for other purposes apart from agriculture. It is submitted that thereafter, the petitioner had approached the 1st respondent with

Ext.P5 application seeking reassessment of the land tax and for additions/alterations in the Basic Tax Register showing the property of the petitioner as garden land/dry land. It is submitted that the said application has been rejected by Ext.P7 directing the petitioner to prefer an application under the provisions of Kerala Conservation of Paddy Land and Wet land Amendment Act, 2018.

2. The learned Government Pleader submits that the application submitted by the petitioner has to be considered in accordance with the provisions of the Kerala Land Tax Act and the Rules.

3. Having considered the contentions advanced and having gone through the communication issued by the 1st respondent, I am of the opinion that the rejection of the application submitted by the petitioner on the ground that the petitioner has to approach RDO, Palakkad under the

provision of Kerala Conservation of Paddy Land and Wetland Act cannot be accepted.

4. In **Iype Varghese v. Revenue Divisional Officer** [2020 (5) KLT 403], this Court held that where statutory permission for change of user of land has been obtained for conversion of a paddy land to a garden land in terms of the provisions contained in the Kerala Land Utilisation Order, then it is the obligation of the competent authority under the Land Tax Act to make a fresh assessment of the land so as to collect the higher land tax for such converted land and to issue appropriate directions to the officers concerned to make additional entries in the Basic Tax Register so as to reflect the nature of the land as garden land/purayidom in the said Register. In the light of the aforesaid decision, the petitioner is entitled to succeed.

5. In the decision of a Division Bench of this Court in **District Collector, Ernakulam and others v. Fr.Jose Uppani and others** [2020 (4) KLT 612], it was also held that where an order under the Kerala Land Utilisation Order has passed permitting the use of the property for other purposes and where conversion has been effected pursuant thereto, the further insistence of obtaining orders under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 as amended in 2017 cannot be accepted and that the authorities are duty bound to take steps under the Kerala Land Tax Act for alterations/additions to be made in the revenue records and for reassessment of the land tax.

In the above view of the matter, this writ petition is allowed. Ext.P7 is set aside. There will be a direction to the 1st respondent to take up the

application preferred by the petitioner and to consider and pass orders on the same, after considering all relevant aspects of the matter and the binding decisions of this Court in **Iype Varghese's case** and **Fr.Jose Uppani's case** cited supra. Orders shall be passed within a period of two months from the date of receipt of a copy of this judgment.

Sd/-

ANU SIVARAMAN
JUDGE

SPR

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF DOCUMENT NO.4277 OF 1977 DATED 29.06.1977 OF S.R.O. PALAKKAD.
EXHIBIT P2	TRUE COPY OF THE LAND TAX RECEIPT DATED 23.04.2022 ISSUED BY THE 2ND RESPONDENT.
EXHIBIT P3	TRUE COPY OF THE BUILDING PERMIT NO.BA 356/19-20/65 DATED 24.09.2019.
EXHIBIT P4	TRUE COPY OF THE PROCEEDINGS OF THE SUB COLLECTOR/REVENUE DIVISIONAL OFFICER, PALAKKAD.
EXHIBIT P5	TRUE COPY OF THE APPLICATION DATED 27.01.2023.
EXHIBIT P6	TRUE COPY OF THE COVERING LETTER DATED 27.01.2023.
EXHIBIT P7	TRUE COPY OF THE COMMUNICATION NO.TLKPKD/668/2023-F1 DATED 10.02.2023 ISSUED BY THE 1ST RESPONDENT.
EXHIBIT P8	W.P.(C)NO.38468 OF 2022. TRUE COPY OF THE JUDGMENT DATED 21-12-2022 IN W.P. (C) NO.38468 OF 2022.

RESPONDENTS EXHIBITS: NIL.