IN THE HIGH COURT OF KERALA AT ERNAKULAM

8PRESENT

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY ,THE 01ST DAY OF FEBRUARY 2019 / 12TH MAGHA, 1940

WP(C).No. 13005 of 2018

PETITIONER/S:

K.S.JOSHY
AGED 63 YEARS, S/O LATE. SANKUNNY,RESIDING AT FLAT NO.2C, LOTUS APARTMENT,DURBAR HALL ROAD, KARITHALA DESOM, ERNAKULAM VILLAGE,KANAYANNUR TALUK, ERNAKULAM DISTRICT, PIN- 682016.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENT/S:

1 **STATE OF KERALA**
REPRESENTED BY SECRETARY, REVENUE DEPARTMENT,GOVERNMENT SECRETARIAT ANNEX, THIRUVANANTHAPURAM- 695001.

2 **THE DISTRICT COLLECTOR**
ALAPPUZHA, CIVIL STATION, ALAPPUZHA, PIN- 688654.

3 **THE REVENUE DIVISIONAL OFFICER**
ALAPPUZHA DISTRICT, PIN-688654.

OTHER PRESENT:

SRI.PAUL ABRAHAM VAKKANAL,GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01.02.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This writ petition is filed by the petitioner seeking the following reliefs:

"i) Call for the entire records leading to Ext.P11 and Ext.P13 orders passed by the 3rd respondent and 4th respondent and set aside the same.

ii) Declare that Ext.P14 ordinance has no application with regard to any proceeding initiate under Clause 6 (1) and (2) of Kerala Land Utilisation Order, 1967.

iii) Grant such other reliefs, which are just and necessary in the interest of justice and deem fit just and proper."

2. Petitioner, owner of an extent of 139.56 Ares of property situate in Survey Nos.199/6A, 199/11, 199/16B, 199/9C, 199/10-2-1, 199/10-2,20B, 199/12, 199/12-6, 199/16-A1, 199/12-5, 199/12, 199/6-A2, 199/20-A, 199/19, 199/20A & 199/9C approached the Sub Collector to secure orders as per the provisions of the Kerala Land Utilisation Order, 1967, which was rejected as per Ext.P6.

3. Having been aggrieved, an appeal was preferred by the petitioner, before the Land Revenue Commissioner. The Land Revenue Commissioner has passed Ext.P13 order affirming the order passed by the primary authority. However, petitioner was given the liberty to submit any suitable application in accordance with Ordinance 2017.

4. Today when the matter is taken up, learned Counsel for the petitioner submitted that the situation would suffice, if the petitioner is permitted to submit any application under Section 27A of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 (hereinafter referred to as 'Act 2008' for short), as amended by Act 2018, and a further direction to consider the said application *de hors* the findings contained in Exts.P11 and Ext.P13.

5. Having considered the rival submissions made across the Bar and perusing the pleadings and documents on record, I am of the considered opinion that, since the petitioner is left with a remedy under Ext.P13 by the appellalte authority itself, permission can be granted to the petitioner to file such an application before the primary authority.

6. In that view of the matter, this writ petition is disposed of, leaving open the liberty of the petitioner, to submit any suitable application before the 3rd respondent within three weeks from the date of receipt of a copy of this judgment. If any such application is filed, it shall be considered, by the 3rd respondent in accordance with law, and attain finality at the earliest possible time and at any rate within three months from the date of receipt of a copy of the application, applying the parameters and

stipulations contained under Section 27A of Act 2008.

The writ petition is disposed of accordingly.

Sd/

SHAJI P.CHALY

Jm/ **JUDGE**

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE LETTER DATED 25.01.2012 ISSUED BY THE AGRICULTURAL OFFICER.**
EXHIBIT P2	**TRUE COPY OF THE CERTIFICATE DATED 14.05.2013 ISSUED BY THE VILLAGE OFFICER, KOKKOTHAMANGALAM.**
EXHIBIT P3	**TRUE COPY OF THE REPRESENTATION DATED 25.10.2016 SUBMITTED BY THE PETITIONER BEFORE 2ND AND 3RD RESPONDENTS.**
EXHIBIT P4	**TRUE COPY OF THE JUDGMENT DATED 08.11.2016 IN WP(C) NO.35837/2016 PASSED BY THIS HON'BLE COURT.**
EXHIBIT P5	**TRUE COPY OF THE REPORT FORWARDED BY THE AGRICULTURAL OFFICER TO THE 3RD RESPONDENT ALONG WITH THE REPORT AND COPY OF THE SATELLITE MAP.**
EXHIBIT P6	**TRUE COPY OF THE ORDER OF THE 3RD RESPONDENT IN FILE NO.C-4926/16 DATED 15.07.2017.**
EXHIBIT P7	**TRUE COPY OF THE REPRESENTATION DATED 22.08.2017 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.**
EXHIBIT P8	**TRUE COPY OF THE JUDGMENT IN WP(C) 31158/2017 DATED 28.09.2017 PASSED BY THIS HON'BLE COURT.**
EXHIBIT P9	**TRUE COPY OF THE CONTEMPT NOTICE DATED 10.10.2017 ISSUED BY THE PETITIONER TO THE DISTRICT COLLECTOR WITH COPY TO REVENUE DIVISIONAL OFFICER.**
EXHIBIT P10	**TRUE COPY OF THE ORDER IN I.A 18841/2017 IN WP(C) NO.31158/2017 DATED 06.12.2017.**
EXHIBIT P11	**TRUE COPY OF THE ORDER AS BEARING NO.C1-4931/17 DATED 29.12.2017.**
EXHIBIT P12	**A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C) 496/2018.**
EXHIBIT P13	**TRUE COPY OF THE ORDER DATED 05.03.2018 OF**

LAND REVENUE COMMISSIONER.

EXHIBIT P14	**TRUE COPY OF THE RE-PROMULGATED 2017 AMENDMENT ORDINANCE OF KERALA CONSERVATION OF PADDY LAND AND WET LAND ACT, 2008.**