

**15 -ാം കേരള നിയമസഭ**

**10 -ാം സമ്മേളനം**

**നക്ഷത്ര ചിഹ്നം ഇല്ലാത്ത ചോദ്യം നം. 1564**

**01-02-2024 - ൽ മറുപടിയ്ക്ക്**

**ഉദ്യോഗസ്ഥർക്ക് ഭൂമി തരം മാറ്റവുമായി ബന്ധപ്പെട്ട കാര്യങ്ങളിൽ പരിശീലനം**

ചോദ്യം		ഉത്തരം	
<b>ശ്രീ. കെ. ബാബു (തൃപ്പൂണിത്തുറ)</b>		<b>ശ്രീ. കെ. രാജൻ (റവന്യൂ-ഭവനനിർമ്മാണ വകുപ്പ് മന്ത്രി)</b>	
(എ)	<p>സംസ്ഥാനത്ത് ഭൂമി തരം മാറ്റുന്നതിന് അപേക്ഷ നൽകുന്നവരെ ഉദ്യോഗസ്ഥർ നിരന്തരം ബുദ്ധിമുട്ടിക്കുന്നതിനാൽ തരം മാറ്റവുമായി ബന്ധപ്പെട്ട വിഷയങ്ങളിൽ ഉദ്യോഗസ്ഥർക്ക് പരിശീലനം നൽകണമെന്ന് ഹൈക്കോടതി നിർദ്ദേശിച്ചിട്ടുണ്ടോ; ഉണ്ടെങ്കിൽ ഏത് സാഹചര്യത്തിലാണ് ഇത്തരം ഒരു നിർദ്ദേശം കോടതിയുടെ ഭാഗത്തുനിന്ന് ഉണ്ടായതെന്ന് വ്യക്തമാക്കുമോ;</p>	(എ)	<p>തൃശ്ശൂർ സബ് കളക്ടർ മുമ്പാകെ സമർപ്പിച്ച ഫോറം 9 അപേക്ഷ നിരസിച്ചതിനെതിരെ ശ്രീമതി കക്ക ജോയി തൃശ്ശൂർ എന്നവർ ബഹു.ഹൈക്കോടതിയിൽ ഫയൽ ചെയ്ത WP(C) 39394/2023 നമ്പർ കേസിന്റെ 12.12.2023 -ലെ ഉത്തരവിൽ തരം മാറ്റവുമായി ബന്ധപ്പെട്ട വിഷയങ്ങളിൽ ഉദ്യോഗസ്ഥർക്ക് പരിശീലനം നൽകണമെന്ന് ബഹു.ഹൈക്കോടതി പരാമർശിച്ചിട്ടുണ്ട്.</p>
(ബി)	<p>ബന്ധപ്പെട്ട നിയമങ്ങളെയും ചട്ടങ്ങളെയും കുറിച്ച് ഉദ്യോഗസ്ഥർക്ക് ശരിയായ ധാരണ ഇല്ലാത്തത് പൊതുജനങ്ങൾക്ക് കൂടുതൽ ബുദ്ധിമുട്ട് സൃഷ്ടിക്കുന്നു എന്ന ആക്ഷേപം പരിഗണിച്ച് റവന്യൂ വകുപ്പ് ഉദ്യോഗസ്ഥർക്ക് തുടർച്ചയായുള്ളതും ഫലപ്രദവുമായ സമഗ്ര പരിശീലന പരിപാടി ആവിഷ്കരിക്കുമോ; വിശദമാക്കാമോ?</p>	(ബി)	<p>എല്ലാ തലത്തിലും പെട്ട റവന്യൂ വകുപ്പിലെ ഉദ്യോഗസ്ഥർക്ക് റവന്യൂ വകുപ്പിന്റെ ഉദ്യോഗസ്ഥ പരിശീലന കേന്ദ്രമായ ഇൻസ്റ്റിറ്റ്യൂട്ട് ഓഫ് ലാൻഡ് &amp; ഡിസാസ്റ്റർ മാനേജ്മെന്റ് മുഖേന, ഈ വിഷയം ഉൾപ്പെടുത്തി, പ്രഗല്ഭരായ വ്യക്തികൾ നയിക്കുന്ന ചിട്ടയായ പരിശീലനം നൽകി വരുന്നുണ്ട്. കൂടാതെ, പുതിയതായി നിയമിക്കപ്പെട്ട എല്ലാ സബ് കളക്ടർമാർക്കും ഇക്കാര്യത്തിൽ പ്രത്യേക പരിശീലനം നൽകിയിട്ടുണ്ട്. ടി നിയമത്തിലെയും ചട്ടങ്ങളിലെയും വ്യവസ്ഥകൾ നടപ്പിലാക്കുന്നതുമായി ബന്ധപ്പെട്ട സംശയദൂരീകരണം സാധ്യമാകുന്ന വിധത്തിലാണ് പരിശീലനം നൽകി വരുന്നത്. തരം മാറ്റ അപേക്ഷകൾ തീർപ്പാക്കുന്നത് സംബന്ധിച്ച് ഒരു SOP തയ്യാറാക്കിയിട്ടുണ്ട്. കൂടാതെ നാളിതു വരെയുള്ള ഭേദഗതികളും സർക്കാർ ഉത്തരവുകളും സർക്കുലറുകളും കോടതി വിധികളും ക്രോഡീകരിച്ച് പ്രസിദ്ധീകരിക്കുന്നതിനും 24.01.2024 തീയതിയിൽ കൂടിയ റവന്യൂ സെക്രട്ടേറിയറ്റ് തീരുമാനം കൈക്കൊണ്ടിട്ടുണ്ട്.</p>

സെക്ഷൻ ഓഫീസർ



2023:KER:83026

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE VIJU ABRAHAM

TUESDAY, THE 12<sup>TH</sup> DAY OF DECEMBER 2023 / 21ST AGRAHAYANA, 1945

WP(C) NO. 39394 OF 2023

PETITIONER:

CUCKOO JOY, AGED 60 YEARS  
W/O. JOY MEKKATTUPARAMBIL, FLAT NO.3087,  
FEDERAL CITY, KARAYAMPARAMBU, KARUKUTTY,  
THRISSUR., PIN - 683576

BY ADV K.R.SUNIL

RESPONDENT:

THE REVENUE DIVISIONAL OFFICER  
REVENUE DIVISIONAL OFFICE,  
CIVIL STATION ANNEXE, IRINJALAKKUDA,  
THRISSUR DISTRICT ., PIN - 680125

OTHER PRESENT:

GP - SYAMANTHAK B.S.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**VIJU ABRAHAM, J.**

.....  
**W.P (C) No. 39394 of 2023**  
.....

Dated this the 12<sup>th</sup> day of December, 2023

**JUDGMENT**

Petitioner has approached this Court challenging Ext.P9 whereby Ext.P7 application in Form 9 submitted by her has been rejected by the respondent.

2. Petitioner is the co-owner of a property having an extent of 14.16 Ares comprised in survey nos.336, 337 and 345 of Parappookara Village in Mukundapuram Taluk as per Ext.P1 sale deed dated 28.04.2011. Petitioner submits that out of the total extent of 14.16 Ares, certain extent of the property was wrongly included in the data bank as 'nilam', however the entire property was lying as a garden land. Thereupon petitioner has preferred an application in Form 5 which was directed to be disposed of by this Court as per Ext.P5 judgment. Ultimately after filing of a contempt of court case, order was passed on the said application as per Ext.P6 directing to remove the property from the data bank. Thereafter Ext.P7 application in Form 9 was submitted by the petitioner which has now been rejected as per Ext.P9.

3. A perusal of Ext.P9 would reveal that the application has been rejected holding that since the property has been removed from the data bank as per order dated 06.01.2023 and since the property was included in the data bank



prepared on 04.12.2020, it is to be held that the property has not been converted prior to 04.07.1967. I am surprised, an officer in the post of Revenue Divisional Officer has rejected an application in Form 9 stating that since the property has been included in the data bank, it could be presumed that the property was not converted prior to 04.07.1967. Admittedly the inclusion of the property in the data bank has been removed as per Ext.P6 order, which itself would show that the inclusion of the property in the data bank was an erroneous entry and thereafter the very same RDO could not take the stand that since the property has been included in the data bank, it could be presumed that the property has not been converted prior to 04.07.1967, especially when the parameters for consideration of Form 5 application is regarding the nature of the property as on the date of coming into force of the Act 2008; whereas for considering a Form 9 application the consideration is regarding the nature of the property as on 04.07.1967. Even otherwise, while considering an application in Form 9 the parameters as laid down in Rule 12(13) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 and the supporting documents mentioned in the said Rule are to be looked into. It is also surprising that Ext.P9 order has been issued by the same Revenue Divisional Officer who has entered a finding in Ext.P6 order that there is a tiled roof house in existence in the property which is aged more than 60 years. A perusal of Ext.P7 application in Form 9 would reveal that necessary documents have been produced by the petitioner along with the



said application which have not been considered while issuing Ext.P9 order and the same has been rejected by a totally arbitrary reasoning. Therefore, Ext.P9 is set aside, with a consequential direction to the respondent to consider Ext.P7 application in Form 9 strictly in accordance with the provisions of Rule 12(13) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 and the documents produced by the petitioner in support of Ext.P7 application in Form 9 and take a final decision in the matter after affording an opportunity of being heard to the petitioner, within an outer limit of two months from the date of receipt of a copy of the judgment. Though this Court is of the opinion that this is a fit case where exemplary costs should be imposed, I am refraining from doing so only on the persuasive requests made by the learned Government Pleader and on his undertaking that application in Form 9 would be considered strictly in accordance with the provisions of Rule 12(13) of the Rules 2008 and after considering the documents produced by the petitioner along with Ext.P7 application in Form 9 and other documents if any produced at the time of hearing.

4. Despite several directions issued by this Court to consider the applications submitted as per the provisions of the Act 2008 strictly in accordance with law, the order issued in the nature of Ext.P9 rejecting the application stating flimsy and untenable reasons, reveal that the situation has not been improved a bit. This Court in **Kunhammed Kutty v. State of Kerala,**



**2023 (2) KLT 501** relying on the judgment in **Vasu Kallayi v. State of Kerala,**

**2022 (4) KLT 186** has held as follows:

*“9. A perusal of Exts.P9 and P14 orders would reveal that such applications submitted by the citizens have been decided and considered without any application of mind and without considering any of the contentions raised by them in a proper manner. The Act and the Rules entrust the consideration of applications like Ext.P3 and the appeals to senior revenue officers and it is seen in the present case that Exts.P9 and P14 have been considered by officers of the Indian Administrative Service. Entrustment of such duties to such higher officials itself will show the intention of the legislature that since this is a proceedings affecting the right of user of landed property of the citizen, it should be properly considered with the seriousness it deserve. The Act, 2008 imposes a restriction upon the use of the property and going by the mandates of Article 300 A of the Constitution of India, it can only be in accordance with law. Though right to property is no longer a fundamental right, it is still a constitutional right and a human right. (See the judgments of Apex Court in Bishamber Dayal Chandra Mohan v. State of Utter Pradesh [1982 (1) SCC 39] and Indian Handicraft Emporium v. Government of India [2003 7 SCC 589].) Such casual way of consideration as is done in the present case is arbitrary and unjust. The finding in Ext.P9 that 'Kuzhikoor"Chamayangal' can only be termed as a style of writing the sale deed is nothing but a callous approach, which is only to be condemned. The said authorities did not care to make any efforts to understand the real meaning of the terms used in sale deeds and rejected the claim of the petitioner on trivial grounds. It is seen that the Village Officer who issued Ext.P15(a) communication under the RTI Act has clearly understood the meaning of the words with reference to the Kerala Land Reforms Act, 1963. When a citizen approaches the higher officials like the Revenue Divisional Officer and District Collector, they are duty bound to consider his application with due application of mind, strictly in accordance with law, which has not been done in the present case. This Court in Vasu Kallayi v. State of Kerala [2022 (4) KHC 527], while considering a case coming under the Kerala Conservation of Paddy Land and Wetland Act, 2008 directed the Government to take appropriate steps to see that sufficient refreshment/training course are convened to enlighten the officers about the legal position in consultation with*



the Advocate General, so that the mistakes are not committed in future by the Revenue Divisional Officer while invoking the powers of the Act, 2008 and directed that the copy of the judgment to be forwarded to the 1st respondent Government and to the learned Advocate General for necessary action, so that the accumulation of the cases before the court under the Act, 2008 can be considerably reduced. Paragraph 9 of the said judgment is extracted below:

“9. In the light of the above judgment, it is very clear that Exts.P10 and Ext.P12 are unsustainable. Sec.27A(11) of the Act, 2008 can be invoked by the Revenue Divisional Officer only in a situation where the conditions specified in the order issued under sub-sec. (2) are not complied by the applicant either fully or partially. Here, Ext.P5 is the original order passed by the 2nd respondent. Nobody has got any case that the conditions in Ext.P5 are not complied. Similarly, there is no case to the 2nd respondent that the impediments of Secs.2 and 4 of Sec.27A of the Act, 2008 are invoked in this matter. Ext.P12 order is passed because of the ignorance of the law. A bare reading of Sec.27A(11) of the Act, 2008 itself will show that an order passed under Sec.27A can be cancelled only in certain conditions mentioned in Sec.27A(11). Admittedly, there is no such violation of the conditions. If that is the case, Ext.P12 order is unsustainable in law. The 2nd respondent being a statutory authority should know the law and the dictum laid down by this Court. It is a settled legal dictum that ignorance of law is not an excuse. The first respondent should take appropriate steps to see that sufficient refreshment/training courses are convened to enlighten the officers about the legal position in consultation with the Advocate General, so that the mistakes are not committed in future by the Revenue Divisional Officer while invoking the powers of Act, 2008. A copy of this judgment should be forwarded to the 1st respondent and to the learned Advocate General for taking necessary follow up action so that the accumulation of cases before this Court under the Act, 2008 can be considerably reduced. Anyway, this writ petition is only to be allowed.”

Despite the directions issued in this regard by this Court, the high placed revenue authorities are considering the applications submitted under the Act, 2008 in a very casual manner putting the citizens to great difficulty. Therefore,



*the Registry shall communicate the copy of the judgment to the 1st respondent herein to take appropriate action in this regard as directed in Vasu Kallayi case (Supra). The 1st respondent shall issue necessary directions to the Officers under him who are duly authorised to consider the claims under the Kerala Conservation of Paddy and Wetland Act, 2008, to be more prompt and vigilant in dealing with such issues and pass reasoned orders in accordance with law. ”*

*(underline supplied)*

In view of the above, it is reminded and ordered that the Government should take steps to conduct periodic training programmes (which can even be held online) for the officers in consultation with the learned Advocate General so that the officers will consider the applications under the Act 2008 in a legal and proper manner. Service of the learned Government Pleaders who are dealing with the subject, who are without any doubt well versed in the subject; could be utilized for conducting such training sessions, so as to achieve the required result.

Registry to communicate a copy of the judgment to the Secretary to Government, Revenue Department for appropriate following up action.

With the abovesaid direction, the writ petition is disposed of.

Sd/-

**VIJU ABRAHAM  
JUDGE**



**APPENDIX OF WP(C) 39394/2023**

## PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE SALE DEED NO.1670/1/2011  
DATED 28.04.2011
- Exhibit P2 TRUE COPY OF THE POSSESSION CERTIFICATE  
DATED 23.04.2015 ISSUED BY THE VILLAGE  
OFFICER, PARAPPOOKKARA
- Exhibit P3 TRUE COPY OF THE OWNERSHIP CERTIFICATE  
DATED 25.06.2015 ISSUED BY PARAPPOOKKARA  
GRAMA PANCHAYAT
- Exhibit P4 TRUE COPY OF THE SKETCH SHOWING THE LIE  
AND NATURE OF THE PROPERTY
- Exhibit P5 TRUE COPY OF THE JUDGMENT OF THIS  
HONOURABLE COURT DATED 14.07.2022 IN  
W.P(C) NO.15352/2022
- Exhibit P6 TRUE COPY OF THE ORDER DATED 06.01.2023  
ISSUED BY THE RESPONDENT
- Exhibit P7 TRUE COPY OF THE FORM NO.9 APPLICATION  
SUBMITTED BY THE PETITIONER ONLINE ON  
18.05.2023 BEFORE THE RESPONDENT
- Exhibit P8 TRUE COPY OF THE JUDGMENT OF THIS HON'BLE  
COURT DATED 30.05.2023 IN WRIT PETITION  
NO.17335/2023
- Exhibit P9 TRUE COPY OF THE ORDER REJECTING THE  
PETITIONER'S FORM NO.. 9 APPLICATION DATED  
13.9.2023