



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 5449 OF 2019

PETITIONER:

JAGANADHAN,
AGED 68 YEARS, S/O RAMAN,
THOTTOLI HOUSE, PUTHUPANAM P.O.
VATAKARA, KOZHIKODE DISTRICT

BY ADVS.
SRI K.MOHANAKANNAN
SMT.T.V.NEEMA

RESPONDENTS:

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
- 2 DISTRICT COLLECTOR,
KOZHIKODE 673 001.
- 3 REVENUE DIVISIONAL OFFICER VATAKARA,
KOZHIKODE 673 101
- 4 THAHASILDAR,
VATAKARA, KOZHIKODE DISTRICT
- 5 VILLAGE OFFICER,
NADAKUTHAZHA VILLAGE, VATAKARA, KOZHIKODE
SRI. RENJITH, SPL. GP.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).26888/2021 AND CONNECTED CASES,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 26888 OF 2021

PETITIONER:

AMINA P.M.
AGED 74 YEARS, W/O. KUTTY HASSAN,
MADATHIL HOUSE, KACHINIKKAD,
VADAKKANGARA VILLAGE, MAKKARAPARAMBA,
MALAPPURAM, KERALA-676 507,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER
V.SASIDHARAN NAIR, AGED 63 YEARS,
S/O. LATE P.VELAYUDHAN THAMBI,
KAVALAMPILLY HOUSE, PARADISE ROAD,
VYTTILA, ERNAKULAM, KERALA-682 019

BY ADVS.
SRI P.SATHISAN
MS.DONA AUGUSTINE
SRI ATHUL RAJESH

RESPONDENTS:

- 1 THE REVENUE DIVISIONAL OFFICER
OFFICE OF THE SUB COLLECTOR,
NEAR MINI CIVIL STATION,
PERINTHALMANNA P.O., MALAPPURAM DISTRICT,
KERALA-679 322
- 2 THE ADDITIONAL TAHSILDAR (LAND RECORDS),
TALUK OFFICE, PERINTHALMANNA P.O.,
MALAPPURAM DISTRICT, KERALA-679 322
- 3 THE VILLAGE OFFICER,
VADAKKANGARA VILLAGE,
PERINTHALMANNA P.O.,
MALAPPURAM -679 322
- 4 THE AGRICULTURAL OFFICER,
KRISHI BHAVAN, MAKKARAPARAMBA,
PERINTHALMANNA P.O.,
MALAPPURAM -679 322



- 5 LOCAL LEVEL MONITORING COMMITTEE,
MAKKARAPARAMBA GRAMA PANCHAYAT,
PERINTHALMANNA P.O., MALAPPURAM -679 322
REPRESENTED BY ITS CONVENER
- 6 THE SECRETARY,
MAKKARAPARAMBA GRAMA PANCHAYAT,
PERINTHALMANNA P.O.,
MALAPPURAM DISTRICT -679 322
- 7 STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM P.O., PIN-695 001

BY ADV C.A.CHACKO
SRI.RENJITH, SPL.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).5449/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

HIGH COURT OF KERALA
CERTIFIED COPY



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 26901 OF 2021

PETITIONER:

GEORGIE ALEXANDER
AGED 67 YEARS
S/O. MR.ALEXANDER, "MELEL",
AANCHUMURI LANE, P.O.THAMMANAM, COCHIN-682032.

BY ADVS.
SRI V.N.HARIDAS
SRI SAIFUDEEN T.S
SRI M.MANU

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 2 THE DISTRICT COLLECTOR
COLLECTORATE, KAKKANAD, ERNAKULAM-682030.
- 3 THE REVENUE DIVISIONAL OFFICER
RD OFFICE, FIRST FLOOR,
K.B.JACOB ROAD, KOCHI-682001.

SRI.RENJITH, SPL.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).5449/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 27836 OF 2021

PETITIONER:

A.V.BHANUMATHI
W/O.GOPALAN K.T., 'ANJANA',
KOZHUMMAL (P.O.), KANNUR - 670 521.

BY ADVS.
SRI C.AJITH KUMAR
SRI RAJEEVU L.G.

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, PUBLIC OFFICE BUILDINGS,
THIRUVANANTHAPURAM - 695 001.
- 2 THE DISTRICT COLLECTOR
COLLECTORATE, N.H.66,
THAVAKKARA, KANNUR - 670 002.
- 3 THE REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE,
COURT ROAD, TALIPARAMBA - 670 141.
- 4 THE TAHSILDAR
TALUK OFFICE, PAYYANNUR, PIN - 670 307.
- 5 THE VILLAGE OFFICER
VILLAGE OFFICE, PAYYANNUR - 670 307.
SRI.RENJITH, SPL.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).5449/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 28181 OF 2021

PETITIONER:

JOY JOHN
AGED 62 YEARS, S/O. JOHN P.J,
POOVAN HOUSE, MARKET P.O,
MUVATTUPUZHA, ERNAKULAM DISTRICT.

BY ADVS.
MS.A.R.PRAVITHA
SRI H.PRAVEEN (KOTTARAKARA)

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM 695 001
- 2 COMMISSIONER, LAND REVENUE,
OFFICE OF THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDING, MUSEUM ROAD,
OPPOSITE ZOO, VIKHAS BHAVAN P.O,
THIRUVANANTHAPURAM 695 033
- 3 REVENUE DIVISIONAL OFFICER
GROUND FLOOR, PATTIMATTOM-MUVATTUPUZHA ROAD,
MUVATTUPUZHA ROAD, MUVATTUPUZHA 686 673
- 4 TAHSILDAR (LR)
TALUK OFFICE, MOOVATTUPUZHA 686 673
- 5 SUB TREASURY OFFICER
VAZHAPPILLI, MUDAVOOR P.O,
MOOVATTUPUZHA 686 669

SRI.RENJITH, SPL.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).5449/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

TUESDAY, THE 5TH DAY OF APRIL 2022 / 15TH CHAITHRA, 1944

WP(C) NO. 29995 OF 2021

PETITIONER:

NITHA
AGED 39 YEARS, W/O.SAJITHKUMAR,
ILLIKKAL HOUSE, KAACHERI DESOM,
NADATHARA VILLAGE, THRISSUR - 680 005.

BY ADVS.
SRI C.A.CHACKO
SMT.C.M.CHARISMA
SRI ALEKH THOMAS
SRI V.R.BABU

RESPONDENT:

REVENUE DIVISIONAL OFFICER
REVENUE DIVISIONAL OFFICE,
CIVIL STATION, AYYANTHOLE,
THRISSUR, PIN- 680 003.

SRI.RENJITH, SPL.G.P.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2022, ALONG WITH WP(C).5449/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



T.R.RAVI, J.

**W.P.(C)Nos.5449 of 2019 and 26888,
26901, 27836, 28181 & 29995 of 2021**

Dated this the 5th day of April, 2022

JUDGMENT

A common issue arises in all these writ petitions and hence they are being heard and disposed of together.

2. The Government of Kerala amended the Conservation of Paddy Land and Wetland Act, 2008 by introducing Section 27A, whereby applications for user of unnotified land for other purposes was permitted. A fee was prescribed for granting permission for such user. On 25.7.2021, the Government issued a Circular whereby a cut off date was fixed for applications seeking permissions for user of unnotified lands for other purposes. The Circular was challenged before this Court and a Division Bench of this Court in its judgment in **Baby v. District Collector [2021 (6) KLT 316]** held that the Circular was unconstitutional. This Court held that when the State Government intended to classify and exclude farmers holding upto 25 cents of unnotified paddy land from payment of fee/charge for utilisation of the same for



other purposes, there cannot be a further reclassification based on date of submission of the application. The petitioners are all persons from whom fee has been collected which they are otherwise not liable to pay, solely based on the Circular which has been held to be unconstitutional. In W.P.(C)No.5449 of 2019, the petitioner paid the amount based on interim order issued by this Court on 4.4.2019 wherein this Court had clearly stated that if the petitioner ultimately succeeds in the writ petition, he will be entitled to refund of the amount. The petitioners in all these cases claim refund of the amounts which have been collected from them illegally based on the Circular which has been held to be unconstitutional.

3. Heard learned counsel for the petitioners and learned Special Government Pleader for the respondents/State.

4. The Special Government Pleader appearing for the State defended the action stating that at the time when the amounts were paid, the Circular had not been declared as unconstitutional and it was valid for all purposes at that point of time. It is hence submitted that the collection of the amounts or the payment of the amount which was made voluntarily cannot hence be held as an



illegal levy liable to be refunded.

5. The issue whether the claim for refund of amounts which have been collected based on the unconstitutional levy either in the form of fee or in the form of tax or in the form of duty is no longer *res integra*. In a series of decisions, the Hon'ble Supreme Court has held that the person from whom such amount is collected is entitled to refund of the amount whether the claim is made in a suit or whether it is made in an application under Article 226 of the Constitution of India. [See **Mahabir Kishore & Ors. v. State of Madhya Pradesh [(1989) 4 SCC 1]**, **Hmm Limited & Anr. v. Administrator, Bangalore City Corporation [(1989) 4 SCC 640]**, **Salonah Tea Company Ltd. v. Superintendent of Taxes Nowgong & Ors. [(1988) 1 SCC 401]** and **U.P. Pollution Control Board & Ors. v. Kanoria Industrial Ltd. & Anr. [(2001) 2 SCC 549]**].

6. In the light of the declaration of law made by the Hon'ble Supreme Court, the petitioners are entitled to succeed in these writ petitions. The writ petitions are allowed. The following directions are hence issued;

7. In **W.P.(C)No.5449 of 2019**, the petitioner was



directed to remit 20% of the fair value of the land as per Ext.P8 notice dated 15.2.2019. He had challenged Ext.P8 in the writ petition. On 4.4.2019, this Court directed the petitioner to remit the amount demanded in Ext.P8 without prejudice to the contentions raised in the writ petition. The petitioner has thereafter remitted the amount. The 3rd respondent is directed to refund the amount so remitted within two months from the date of receipt of a copy of this judgment.

8. In **W.P.(C)No.26888 of 2021**, the petitioner has remitted a sum of Rs.2,28,540/- as evidenced by Ext.P8 challan. The 1st respondent is directed to refund the said amount within two months from the date of receipt of a copy of this judgment.

9. In **W.P.(C)No.26901 of 2021**, the petitioner has remitted an amount of Rs.11,15,100/- on 20.10.2021. The 3rd respondent is directed to refund the said amount within two months from the date of receipt of a copy of this judgment.

10. In **W.P.(C)No.27836 of 2021**, the petitioner has remitted a sum of Rs.5,61,561/- on 29.7.2021 as evidenced by Ext.P4 challan. The 3rd respondent is directed to refund the said amount within two months from the date of receipt of a copy of



this judgment.

11. In **W.P.(C)No.28181 of 2021**, the petitioner has remitted a sum of Rs.8,83,500/- on 26.10.2021 as per Ext.P2 challan. The 3rd respondent is directed to refund the said amount within two months from the date of receipt of a copy of this judgment.

12. In **W.P.(C)No.29995 of 2021**, based on Ext.P4 communication, the petitioner had remitted an amount of Rs.51,922/- for the purpose of consideration of her application, on 2.9.2021. The respondent is directed to refund the said amount within two months from the date of receipt of a copy of this judgment.

In the circumstances of the cases, there will be no order as to costs.

Sd/-
T.R.RAVI
JUDGE

dsn



APPENDIX OF WP(C) 5449/2019

PETITIONERS' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PARTITION DEED 1248/1 OF
SRO, VATAKARA.
- EXHIBIT P2 TRUE COPY OF THE PURCHASE CERTIFICATE
ISSUED VIDE PROCEEDINGS NO. 2769/73 DATED
20.11.1975
- EXHIBIT P3 TRUE COPY OF THE JUDGMENT DATED 27.10.2017
IN WPC 34397/2017
- EXHIBIT P4 TRUE COPY OF THE ORDER PASSED NO F-
1253/2018 BY THE 3RD RESPONDENT DATED
5.12.2018
- EXHIBIT P5 TRUE COPY OF THE REPRESENTATION DATED
18.12.2018
- EXHIBIT P6 TRUE COPY OF THE APPLICATION DATED
14.1.2019 SUBMITTED BY THE PETITIONER
BEFORE THE 4TH RESPONDENT TAHASILDAR
- EXHIBIT P7 TRUE COPY OF THE JUDGMENT DATED 24.1.2019
IN WRIT PETITION 958/2018
- EXHIBIT P8 TRUE COPY OF THE COMMUNICATION SENT BY THE
3RD RESPONDENT TO THE PETITIONER DATED
15.2.2019
- EXHIBIT P9 TRUE COPY OF THE OBJECTION FILED BY THE
PETITIONER BEFORE THE 3RD RESPONDENT DATED
20.2.2019



APPENDIX OF WP (C) 26888/2021

PETITIONERS' EXHIBITS

Exhibit P1	TRUE COPY OF THE PURCHASE DEED OF THE LAND BELONGING TO THE PETITIONER DATED 14.02.1979
Exhibit P2	TRUE COPY OF THE PHOTOGRAPH PERTAINING TO OLD CONSTRUCTION AND CONNECTED ELECTRICITY SUPPLY
Exhibit P3	TRUE COPY OF GOVERNMENT ORDER NO.1166/2021/REV DATED 25.02.2021
Exhibit P4	TRUE COPY OF THE APPLICATION FOR CORRECTION OF BTR DATED 18.11.2020
Exhibit P5	TRUE COPY OF THE COMMUNICATION FROM THE 1ST RESPONDENT DATED 20.11.2021
Exhibit P6	TRUE COPY OF THE REPORT FROM THE 3RD RESPONDENT DATED 02.02.2021
Exhibit P7	TRUE COPY OF THE COMMUNICATION FROM 1ST RESPONDENT DATED 28.08.2021
Exhibit P8	TRUE COPY OF THE FEE RECEIPT REMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 20.10.2021

RESPONDENTS' EXHIBITS

EXHIBIT R7(a)	TURE COPY OF THE G.O.(RT) NO.1166/2021/RD DATED 25.02.2021 OF THE REVENUE DEPT.
EXHIBIT R3(b)	TRUE COPY OF THE GAZETTE SRO 369/2021 DATED 21.04.2021
EXHIBIT R7(c)	TRUE COPY OF THE CIRCULAR NO.REV- P1/117/2021-REV DATED 23.07.2021 OF THE REVENUE DEPT.
EXHIBIT R7(d)	TRUE COPY OF THE CIRCULAR NO.REV- P1/313/2021-REV DATED 10.12.2021 OF THE REVENUE DEPT.



APPENDIX OF WP (C) 26901/2021

PETITIONERS' EXHIBITS

- Exhibit P1 A TRUE COPY OF THE TAX RECEIPT DATED
02.07.2018
- Exhibit P2 A TRUE COPY OF THE APPLICATION IN FORM 6
DATED 07.09.2020 ALONG WITH DEMAND DRAFT
OF RS.1000/- SANS DOCUMENTS SUBMITTED BY
THE PETITIONER BEFORE THE 3RD RESPONDENT
(WITHOUT ENCLOSURES)
- Exhibit P3 A TRUE COPY OF THE JUDGMENT OF THIS
HON'BLE COURT IN WP(C)NO.20202 OF 2020
DATED 29.09.2020
- Exhibit P4 A TRUE COPY OF THE LETTER DATED 19.05.2021
ISSUED BY THE 3RD RESPONDENT REQUIRING THE
PETITIONER TO PAY THE FEES
- Exhibit P5 A TRUE COPY OF THE REPRESENTATION DATED
05.07.2021 SUBMITTED BY THE PETITIONER TO
THE 3RD RESPONDENT REQUESTING TO PERMIT
HIM TO AVAIL THE BENEFIT OF THE STATUTE
- Exhibit P6 A TRUE COPY OF THE POSTAL RECEIPT DATED
05.07.2021
- Exhibit P7 A TRUE COPY OF THE CHALAN BEARING NO.0029-
800-88 DATED 20.10.2021 TO EVIDENCE THE
PAYMENT OF THE FEE.



APPENDIX OF WP (C) 27836/2021

PETITIONERS' EXHIBITS

- Exhibit P1 TRUE COPY OF THE BASIC TAX RECEIPT
NO.KL13050306902/2021 DATED 05/07/2021
ISSUED BY VILLAGE OFFICER, PAYYANNUR IN
RESPECT OF PROPERTY COVERED BY EXTS.P1 AND
P2.
- Exhibit P2 TRUE COPY OF THE CHALAN FEE DATED
04/03/2020, FOR RS.1,000/-, REMITTED BY THE
PETITIONER, AT THE TIME OF MAKING THE
APPLICATION BEFORE THE 3RD RESPONDENT.
- Exhibit P3 TRUE COPY OF THE NOTICE DATED 28/07/2021
ISSUED BY 3RD RESPONDENT TO THE PETITIONER.
- Exhibit P4 TRUE COPY OF THE CHALAN DATED 29/07/2021
EVIDENCING THE REMITTANCE OF THE SUM OF
RS.5,61,561/- BY THE PETITIONER.
- Exhibit P5 TRUE COPY OF THE ORDER DATED 30/07/2021
ISSUED BY 3RD RESPONDENT TO THE PETITIONER.
- Exhibit P6 TRUE COPY OF THE REPRESENTATION DATED
23/11/2021 SUBMITTED BY PETITIONER BEFORE
THE 3RD RESPONDENT.
- Exhibit P7 TRUE COPY OF THE RECEIPT DATED 24/11/2021
ISSUED BY THE 3RD RESPONDENT.



APPENDIX OF WP(C) 28181/2021

PETITIONERS' EXHIBITS

Exhibit P1	TRUE COPY OF DOCUMENT DATED 16-11-2004
Exhibit P2	TRUE COPY OF THE CHALAN ISSUED BY THE 5TH RESPONDENT DATED 26-10-2021
Exhibit P3	TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT DATED 3-11-2021
Exhibit P4	TRUE COPY OF THE GO(P) NO. 47/2020/TAXES DATED 31-3-2020
Exhibit P5	TRUE COPY OF THE GO(MS) NO. 1166/2021/REV DATED 25-2-2021
Exhibit P6	TRUE COPY OF THE CIRCULAR DATED 23-07-2021

HIGH COURT OF KERALA
CERTIFIED COPY



APPENDIX OF WP (C) 29995/2021

PETITIONERS' EXHIBITS

- Exhibit P1 TRUE COPY OF LAND TAX RECEIPT DATED 9/9/20
ISSUED FROM NADATHARA VILLAGE OFFICE.
- Exhibit P2 TRUE COPY OF APPLICATION DATED 19/11/2020
ALONG WITH CHALAN RECEIPT.
- Exhibit P3 TRUE COPY OF RELEVANT PAGES OF MINUTES OF
LOCAL LEVEL MONITORING COMMITTEE DATED
25/6/2021.
- Exhibit P4 TRUE COPY OF COMMUNICATION OF AGRICULTURAL
FIELD OFFICER, KRISHI BHAVAN, THRISSUR
DATED 27/7/2021.

HIGH COURT OF KERALA
CERTIFIED COPY