2025:KER:67080

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

WEDNESDAY, THE 10TH DAY OF SEPTEMBER 2025 / 19TH BHADRA, 1947

WP(C) NO. 19920 OF 2022

PETITIONER:

FARHANA LATHEEF,AGED 33 YEARS
D/O LATHEEF, KAVANAD HOUSE, HARITHA ROAD,
VENNALA P.O., PIN-682028, REPRESENTED BY
POWER OF ATTORNEY MR. LATHEEF, S/O. MUHAMMAD,
AGED 71 YEARS, KAVANAD HOUSE, HARITHA ROAD,
VENNALA P.O., ERNAKULAM DISTRICT-682028.

BY ADV SRI.T.K.AJITHKUMAR (VALATH)

RESPONDENTS:

1 REVENUE DIVISIONAL OFFICER,
IRINJALAKKUDA, REVENUE DIVISIONAL OFFICE,
CIVIL STATION ANNEX, IRINJALAKKUDA, PIN-680125.

2 THE THAHISLDAR (LR),
KODUNGALLUR TALUK, OFFICE OF THE KODUNGALLUR
TAHSILDAR, MINI CIVIL STATION, KODUNGALLUR-680664.

3 THE VILLAGE OFFICER,
LOKAMALLESWARAM VILLAGE, NORTH NADA, NH 66,
KODUNGALLUR-680664.

*ADDL.R4 THE DISTRICT COLLECTOR, COLLECTORATE,
AYYANTHOLE, THRISSUR-680003.

IS SUO MOTU IMPLEADED AS ADDITIONAL 4TH RESPONDENT IN THE WRIT PETITION VIDE ORDER DATED 08.09.2025 IN WP(C).

GP SRI.RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10.09.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

“C.R.”

VIJU ABRAHAM, J.

W.P.(C) No.19920 of 2022

Dated this the 10th day of September, 2025

JUDGMENT

The above writ petition is filed challenging Ext.P10 order passed by the 1st respondent wherein the Form 9 application under Rule 12(13) of the Kerala Conservation of Paddy Land and Wetland Rules, 2008 (hereinafter referred to as “Rules 2008”) for change of nature of unnotified land was rejected.

2. Brief facts necessary for the disposal of the writ petition are as follows: It is averred that the petitioner obtained an extent of 27.52 Ares of property in survey No.289/1 of Lokamaleswaram Village by virtue of Ext.P1 sale deed No.3734 of 2008. It is further contended that the property covered by Ext.P1 was originally obtained by one Padmaja as per Ext.P3 partition deed No.1450 of 1961. Petitioner would submit that the Local Level Monitoring Committee (LLMC) of the Kodungallur Municipality has prepared the data bank with respect to paddy land situated within the limits of Kodungallur Municipality, and in Ext.P6, the petitioner’s property, comprised in survey No.289/1, was not included. But

the property of the petitioner is recorded as paddy land in the Basic Tax Register (BTR) and in the revenue records, as evident from Ext.P2 land tax receipt. Therefore, it is contended that the property of the petitioner covered by Ext.P1 in survey No.289/1 of Lokamaleswaram Village is an unnotified land. Petitioner submits that as per Section 27A(3) of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (hereinafter referred to as "Act 2008"), if the property is converted before 04.07.1967, the date of commencement of the Kerala Land Utilisation Order, 1967, the holder of the property is not required to pay any fees for the change of nature of the property in the revenue records and going by Rule 12(13) of the Rules 2008, an application in this regard shall be filed before the Revenue Divisional Officer in Form 9 and therefore, the petitioner has filed Ext.P7 application in Form 9. On receipt of Ext.P7 application, the 1st respondent forwarded the same to the 3rd respondent Village Officer for report. Thereafter, the 3rd respondent inspected the property and verified all the prior title deeds and found that Ext.P7 application deserved to be allowed and sent Ext.P8 report along with the mahazar to the 1st respondent. Without properly considering Ext.P8 report and the contentions of the petitioner, Ext.P7 application has been rejected as per Ext.P10 order. It is aggrieved by the same that the present writ petition has been filed.

3. Learned Government Pleader based on the counter affidavit filed has raised an objection regarding the maintainability of the writ

petition, stating that a statutory appeal is provided against Ext.P10 order and without availing the same, the petitioner has approached this Court and therefore, the petitioner shall be relegated to approach the appellate forum, challenging Ext.P10.

4. Learned counsel for the petitioner submits that, challenging Ext.P10 order passed under Section 27A(3) of the Act 2008, no appeal is provided as per Section 27B of the Act 2008 and therefore, the petitioner has rightly approached this Court. Petitioner, in support of his contentions, relies on the judgment in **Sakeer Hussain v. State of Kerala and others, 2020 (5) KLT 450**.

5. I have heard the rival contentions on both sides.

6. In view of the rival contentions raised, this Court is to consider whether Ext.P10 order is appealable or not. Section 27A of the Act 2008 deals with the change of nature of unnotified land. Sub-sections (1), (2) and (3) of Section 27A of the said Act, which is relevant for consideration in this case, read as follows:

> *"**27A. Change of nature of unnotified land**.-(1) If any owner of an unnotified land desires to utilise such land for residential or commercial or for other purpose, he shall apply to the Revenue Divisional Officer for permission in such manner as may be prescribed.*
>
> *(2) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal or any other authority, the Revenue Divisional Officer may, after considering the reports of the Village Officer concerned, pass such orders as deemed fit and*

proper, on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary:

Provided that, if the area of such parcel of land where the application is allowed is more than 20.2 Ares, ten per cent of such land shall be set apart for water conservancy measures.

(3) If the application is allowed, the applicant shall be liable to pay a fee at such rate as may be prescribed:

Provided that, no such fee shall be collected if the applicant proves that the land where the application is allowed is, filled up or naturally filled up before the 4th day of July, 1967, the date of commencement of the Kerala Land Utilisation Order, 1967, after completing such procedure, as may be prescribed.

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Section 27A(1) provides that if any owner of an unnotified land desires to utilise such land for residential or commercial or for other purpose, he shall apply to the Revenue Divisional Officer for permission in such manner as may be prescribed. Section 27A(2) mandates that the Revenue Divisional Officer may, after considering the report of the Village Officer concerned, pass such orders as deemed fit and proper, on such applications, ensuring that there is no disruption to the free flow of water to the neighbouring paddy lands, if any, through such water conservancy measures as is deemed necessary. Section 27A(3) mandates that if the application is allowed, the applicant shall be liable to pay a fee at such rate as may be prescribed. The proviso to Section 27A(3) provides that no such fee shall be collected if the applicant proves that the land where the application is allowed is, filled up or naturally filled up before the 4th day of

July, 1967, the date of commencement of the Kerala Land Utilisation Order, 1967, after completing such procedure, as may be prescribed.

7. The procedure to be followed for issuance of an order under Section 27A(2) of the Act 2008 is provided in the Rules 2008. Rule 12(1) mandates that if the extent of the land is upto 20.23 Ares, the application should be filed in Form 6 and if the extent of land is more than 20.23 Ares, the application should be filed in Form 7 before the Revenue Divisional Officer. Rule 12(13) mandates that if the application is in respect of a land which has been filled up or naturally filled up before 4th day of July, 1967, the application should be in Form 9.

8. Section 27B is an appeal provision under the Act 2008, which reads as follows:

> *"**27B. Appeal**.- (1) Any person aggrieved by an order of the Revenue Divisional Officer under sub-section (2) of Section 27A may prefer an appeal to the District Collector within thirty days from the date of receipt of the order.*
>
> *(2) Every appeal preferred under sub-section (1) shall be accompanied by a certified copy of the order appealed against and an appeal fee of rupees five thousand.*
>
> *(3) The District Collector may, after giving an opportunity to the appellant to be heard, dispose of the appeal as expeditiously as possible.*
>
> *(4) The order in appeal shall be final and shall not be challenged in any Civil Court."*

9. A reading of Section 27A(1) reveals that if any owner of an unnotified land desires to utilise such land for residential or commercial

purposes should apply to the Revenue Divisional Officer for permission in such manner as may be prescribed. The manner of filing the application is prescribed in Rule 12 of the Rules 2008, which mandates that the application should be either in Form 6, Form 7 or in Form 9, as the case may be. Here, the application is submitted in Form 9 as mandated in Rule 12(13) of the Rules 2008. Whether the application is submitted in Form 6, Form 7 or Form 9, an order to be passed on the said applications by the Revenue Divisional Officer is under Section 27A(2) of the Act 2008. Section 27B of the Act 2008, which provides for an appeal, mandates that any person aggrieved by an order of the Revenue Divisional Officer under sub-section (2) of Section 27A may prefer an appeal to the District Collector within thirty days from the date of receipt of the order. On a combined reading of all the provisions quoted above, there is no room for any doubt that Ext.P10 order is an order passed under Sub-section (2) of Section 27A of the Act 2008, which is appealable under Section 27B of the said Act.

10. In **Sakeer Hussain**'s case cited supra, the Court was considering whether an order under Section 27A(11) of the Act 2008 is appealable or not. A perusal of the said judgment, especially paragraph 10, reveals that the court has categorically held that the appeal remedy as per Section 27B(1) shall be invoked by the District Collector only for the limited purpose of impugning order passed under Section 27A(2) going by

the specific provision of Section 27B(1) and since no appeal is provided against an order under Section 27A(11), the Court held that the petitioner therein could directly approach this Court. The said judgment is decided on a totally different set of facts and cannot be applied in the facts and circumstances of the present case.

Taking into consideration the fact that an alternate remedy of appeal is provided against Ext.P10 order, an order passed under Section 27A(2) of the Act 2008 on an application submitted under Rule 12(13) of the Rules 2008 in Form 9, I am inclined to dispose of the writ petition as follows:

Petitioner may file an appeal before the additional 4th respondent challenging Ext.P10 order. It is ordered that if the petitioner files an appeal within a period of three weeks from the date of receipt of a copy of the judgment, the appeal shall be treated as one filed within time and a decision on the same shall be taken by the additional 4th respondent after affording an opportunity of being heard to the petitioner, within a period of three months from the date of receipt of the appeal.

Sd/-

VIJU ABRAHAM
JUDGE

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APPENDIX OF WP(C) 19920/2022

PETITIONER EXHIBITS

Exhibit P1	**THE TRUE COPY OF THE SALE DEED NO.3734/2008 DATED 08/07/2008.**
Exhibit P2	**THE TRUE COPY OF THE LAND TAX RECEIPT DATED 08/06/2022.**
Exhibit P3	**THE CERTIFIED COPY OF THE PARTITION DEED NO.1450/1961 ALONG WITH TYPEWRITTEN READABLE COPY.**
Exhibit P4	**THE TRUE COPY OF THE DOCUMENT NO.3377/2000 DATED 27/09/2000.**
Exhibit P5	**THE TRUE COPY OF THE DOCUMENT NO.3378/2000 DATED 27/09/2000.**
Exhibit P6	**THE TRUE PHOTOCOPY OF THE NOTIFIED DATA BANK.**
Exhibit P7	**THE TRUE COPY OF THE APPLICATION DATED 27/07/2021 SUBMITTED TO THE 1ST RESPONDENT.**
Exhibit P8	**THE TRUE PHOTOCOPY OF THE REPORT DATED 13/08/2021 PREPARED BY THE 3RD RESPONDENT.**
Exhibit P9	**THE TRUE PHOTOCOPY OF THE MAHAZAR DATED 10/08/2021 PREPARED BY THE 3RD RESPONDENT.**
Exhibit P10	**THE TRUE PHOTOCOPY OF THE ORDER DATED 28/02/2022 WITH AN ADDENDUM ORDER DATED 02/06/2022 ISSUED BY THE 1ST RESPONDENT.**