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WP(C) No. 26322 of 2019

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.M.MANOJ

TUESDAY, THE 27TH DAY OF JANUARY 2026 / 7TH MAGHA, 1947

WP(C) NO. 26322 OF 2019

PETITIONER:

JOSSY CHACKO
AGED 49 YEARS
S/O. C.CHACKO KAITHAMANGALAM HOUSE, CHETHACKAL P.O., 689
679, CHETHALACKAL VILLAGE, RANNI TALUK, PATHANAMTHITTA,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER, P.J. MATHEW
AGED 58 YEARS, S/O. JOSEPH, KALATHIL HOUSE, 38/2391 H,
GANDHI NAGAR, KALOOR P.O. ERNAKULAM VILLAGE, KANAYANNUR
TALUK, ERNAKULAM DISTRICT.

BY ADVS. SRI.ROY CHACKO
SRI.K.C.VINCENT

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
- 2 THE DISTRICT COLLECTOR,
ALAPUZHA 688 001.
- 3 THE REVENUE DIVISIONAL OFFICER,
ALAPUZHA 688 001.
- 4 THE TAHSILDAR, KUTTANAD TALUK,
MANKOMBU P.O. ALAPUZHA 688 001.
- 5 THE VILLAGE OFFICER, KUNNUMMA VILLAGE, KAVALAM
KAVALAM P.O., KUTTANAD, ALAPUZHA 688 506.



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6 THE LOCAL LEVEL MONITORING COMMITTEE,
PULINKUNNU GRAMA PANCHAYAT, REPRESENTED BY ITS CONVENOR,
THE AGRICULTURAL OFFICER, KRISHI BHAVAN, PULINKUNNU,
ALAPUZHA 688 504.

BY SRI.Y. JAFARKHAN, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.12.2026, THE COURT ON 27.01.2026 DELIVERED THE FOLLOWING:



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C.R.

P.M. MANOJ, J

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Dated this the 6th day of January, 2026

JUDGMENT

The writ petition is preferred by the owner of an extent of 105.81 Ares of property comprised in Re-survey Nos. 157/3, 4, 5, 6, and 160/1, along with another property having an extent of 50 Ares with a building in RS No. 157/2 in Block No. 19 of Kunnumma Village in Kuttanadu Taluk. Altogether, the contiguous holdings amount to 155.81 Ares (385 Cents).

2. The challenge raised in this writ petition is primarily against certain conditions prescribed in Ext. P5 order passed by the 3rd respondent. The petitioner also seeks a declaration that he is entitled to utilise 105.81 Ares (comprised in RS Nos. 157/3, 4, 5, 6, and 160/1 in Block No. 19) for the cultivation of plantain, vegetables, and tubers. This entitlement is claimed on the strength of the direction given by the 3rd respondent, asserting that it constitutes a valid



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permission under Clause 6(2) of the Kerala Land Utilisation Order, 1967 (for short 'KLU Order').

3. Originally, the petitioner obtained permission under Clause 6(2) for converting a limited extent of land in RS Nos. 157/3, 4, 5, 6, and 160/1 (in Block No. 19). This conversion was specifically for a strip of land 6 meters in width and 125 meters in length, intended to provide access to the property having an extent of 50 Ares in RS No. 157/2 of Kunnumma Village. This permission was granted as per the order of the Sub Collector, Alappuzha, dated 17.12.2013. However, it was later realised that, on the strength of the order dated 17.12.2013, the petitioner had reclaimed a much larger extent of property. Consequently, the District Collector issued directions to inspect the property and take necessary steps against the unauthorised reclamation.

4. Accordingly, an inspection was conducted on 07.01.2015. It was realised that, on the strength of the order dated 17.12.2013, the petitioner had unauthorisedly reclaimed a large extent of property. A further inspection was conducted on the same day, 07.01.2015, involving the Agricultural Officer, Tahsildar (Kuttanad),



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and Village Officer (Kunnumma). During this inspection, the following was observed:

- There are 55 yielding coconut trees and 60 coconut saplings in the property.
- The reclaimed property is suitable for the cultivation of plantains, vegetables, and tubers.
- Water channels suitable for irrigation are present around the property.
- Cultivating paddy lands is also visible around the property.

5. Accordingly, certain directions were issued to the petitioner, the Tahsildar (Kuttanad), the SHO (Pulinkunnu), and the Secretary (Kavalam Grama Panchayat):

1. The landowner shall take steps to cultivate the land with the abovementioned crops (plantain, vegetables, and tubers) within 45 days, failing which, the Tahsildar (Kuttanad) is authorized to take action for the cultivation of the said land by giving the land under auction.
2. In case any activities are noted on the property that change its nature, the Tahsildar (Kuttanad) and the SHO (Pulinkunnu) are



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authorized to initiate proceedings for the attachment of those articles used for such activities.

3. No activities or construction other than agriculture shall be done on this property as per the Kerala Land Utilisation (KLU) Order. The Tahsildar must ensure that no construction works are executed on the property.

It was further directed that, as the land is agricultural, the Secretary (Kavalam Grama Panchayat) shall not grant any permission for construction in the property comprised in Survey Nos. 157/3, 4, 5, and 160/1, 2 of Kunnumma Village.

6. However, treating the order issued under Clause 7 as a declaration that the land was not paddy land and not suitable for paddy cultivation, the petitioner preferred WP(C) No. 34153 of 2014 for changing the tenure of the land. This writ petition was disposed of by judgment dated 22.12.2015, which directed the petitioner to approach the District Collector with all necessary details for changing the nature of land in the revenue records. Accordingly, the petitioner approached the District Collector by submitting an application on 12.02.2016. This application was disposed of by proceedings dated 13.07.2016, with the finding that no change was required in the



revenue records. The Collector instead directed the implementation of the Sub Collector's order.

7. Being aggrieved by the previous order, the petitioner again preferred WP(C) No. 33373 of 2016 against Ext. P5 and P7 orders, dated 07.01.2015 and 13.07.2016, respectively. After elaborate consideration, the Court delivered a judgment dated 17.07.2018. Although the Court did not interfere with the above orders, it provided the petitioner an opportunity to approach the respective statutory authorities seeking:

- Permission to utilise the land for a purpose different from paddy cultivation or agricultural activities.
- Recording of the present nature of the property in the revenue records; and
- Reassessment of the tax in accordance with law.

This was based on a legal presumption that the property was not included in the Data Bank under the provisions of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (For short 'Act, 2008').



8. Being aggrieved by that, a Writ Appeal was preferred before this Court; however, it was later sought to be withdrawn. Accordingly, this Court granted the petitioner permission to pursue his remedy against the District Collector, Alappuzha's order dated 07.01.2018. The petitioner was allowed to challenge the order to the extent it was adverse to him, while simultaneously relying upon it to the extent it was in his favour.

9. Accordingly, relying on the favourable finding that the land is not cultivable, the petitioner approached the Tahsildar (Kuttanad) as per Ext. P12 application under Section 6 of the Kerala Land Tax Act. The application seeks a direction for the Tahsildar to consider the matter and effect appropriate entries in the Basic Tax Register (BTR).

10. Per contra, the learned Government Pleader raised the contention that the petitioner has preferred this writ petition flouting all principles of *res judicata*. The argument is based on the fact that the petitioner had previously filed two writ petitions challenging the order dated 07.01.2015 issued by the Sub Collector, Alappuzha, under Clause 7 of the KLU Order. This current petition is viewed as



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an attempt by the petitioner to interpret the previous observation (that the property is not cultivable paddy land) and the direction (to cultivate other crops like plantains, vegetables, and tubers) to secure a declaration that the land is garden land, thereby seeking to change the tenure of the land in the revenue records, which, it is contended, cannot be permitted at all.

11. The Ext. P5 order dated 07.01.2015 was issued under Clause 7 of the KLU Order to prevent the unauthorised conversion of land. This was necessitated because, as per Ext. P3 dated 17.12.2013, the petitioner had been granted permission under Clause 6(2) of the KLU Order for converting a specific strip of land (6 meters in width and 125 meters in length) in RS Nos. 157/3, 4, 5, 6, and 160/1 (in Block No. 19), solely for use as a road to his residential property located in RS No. 157/2. The correct remedy available for the petitioner, as permitted by this Court under the Ext.P8 judgment, is to approach the Revenue Divisional Officer (RDO) under Section 27A of the amended provisions of the Paddy and Wetland Act. Unless and until such an application is moved and



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allowed, the Ext. P12 application under Section 6A of the Land Tax Act cannot be considered.

12. In response to the said contention, the counsel for the petitioner argues that Ext.P5 order dated 07.01.2015 is conclusive, having been issued after a joint inspection by the Tahsildar, Agricultural Officer, Deputy Director of the Agricultural Department, Agricultural Assistant Director, and the Village Officer. The order categorically states that although the property is recorded as *Nilam* (paddy land) in the records, it is currently suitable for the cultivation of plantains, vegetables, and tubers. The petitioner contends that this finding itself demonstrates that the nature of the property is a garden land, as these are the crops typically cultivated in garden lands. Therefore, the nature of garden land must be recorded in the revenue records after re-assessing the tax, and Ext. P12 application was preferred for this purpose.

13. The counsel further contends that, as per Rule 12(17) of the Kerala Conservation of Paddy Land and Wetland Rules, no fee is required for change of tenure when permission under Clause 6(2) had been granted earlier. In the light of Exts.P3 and P5, it appears



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that under the provisions of the KLU Order, specifically Clause 6(2), the Sub Collector (the authorized authority) has already declared that the land in question is not paddy land. Hence, the 4th respondent (Tahsildar) is bound to allow Ext. P12 application, which was preferred under Section 6 of the Land Tax Act.

14. I have heard Sri.Vincent K.C., learned counsel for the petitioner, Sri. Jaffer Khan, learned Senior Government Pleader for the respondents.

15. The maintainability of this writ petition must be considered because it raises a challenge against Ext. P5 order, which the petitioner has already challenged in two other writ petitions. A direct challenge was specifically raised in W.P.(C) No. 33373/2016, along with challenges to subsequent orders, Exts. P10 and P15, passed under Clause 7. The petitioner contends that he is only challenging certain conditions of Ext. P5, arguing that the initial part of the order favours him. This contention does not appear acceptable to me. Although this Court did not interfere with Exts.P5 and P7 (which correspond to Exts. P10 and P15 in the other writ petition), the



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petitioner was previously directed to approach the appropriate authorities under Section 27A of the Paddy Land Act.

16. In an attempt to circumvent the earlier decision, the petitioner now contends that the observations made by the Sub Collector in Ext. P5 and Ext. P7 are sufficient ground to treat the order as having been passed under Clause 6(2) for the entire extent of property in R.S. Nos. 157/3, 4, 5, 6, and 160/1 in Block No. 19. The petitioner then argues that the next step should be taken under Rule 17 of the Kerala Conservation of Paddy Land and Wetland Rules. This contention is also inapplicable here, as Ext. P5 order cannot be treated as an order passed under Clause 6(2). It appears that, as a measure to protect the objective of the KLU Order, certain powers are vested with the Collector to direct the cultivation of land with the food crops that were previously being cultivated. The initial observation of the Sub Collector in Ext. P5 was that the nature of the land previously contained water channels and water bodies. However, on the pretext of Ext. P3 order (which allowed the conversion of a small extent of land for constructing a road to his residential property), the petitioner unauthorizedly converted a large



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extent of land. Instead of directing the restoration of the land, the Sub Collector directed the utilization of the said land for other cultivation. The petitioner misinterpreted this as permission under the KLU Order, which he believes entitles him to convert the land in the revenue records.

17. In such circumstances, the contentions raised by the petitioner on the strength of reported decisions that in **Sivadasan v. Revenue Divisional Officer** [2017 (3) KLT 822], once permission is granted under Clause 6(2), the said property can be used for any other purpose. The Sub Collector cannot direct its use only for certain purposes. Similarly, on the strength of **Shahul Hameed v. Principal Secretary Local Self Government** [2018 (1) KLT 1008], the petitioner asserts that permission is granted to change the agricultural nature to some other purpose, whether it is residential or commercial; the land loses its agricultural nature. Consequently, the owner who utilizes the property for a non-agricultural purpose cannot be restricted. On the strength of the decision in **Puthan Purakkal Joseph v. Sub Collector** [2015 (3) KLT 182] it is contended that if a land is described as *Nilam* (paddy



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field) in the Basic Tax Register (BTR) but was converted long ago, and there is no evidence of food crops being cultivated for three consecutive years, restricting its utilization for non-agricultural purposes would lead to a stalemate regarding the land's use. Even according to the decision of the Honourable Supreme Court, a converted land would not be covered under the Kerala Conservation of Paddy Land and Wetland Act, 2008. Consequently, the property must be found to be governed solely by the provisions of the KLU Order.

18. It is further contended, relying on the Full Bench decision in **Revenue Divisional Officer/Sub Collector v. Jacob Boban** [2024 (5) KLT 588 (F.B.)], that Rule 12(17) is, in fact, intended to obviate (render unnecessary) the procedure contemplated under Section 27A of the Paddy Act when permission for other purposes has already been granted by the Collector under the Kerala Land Utilization Order (KLU Order). Consequently, the petitioner argues that no fee can be levied in such a scenario. Conversely, the learned Government Pleader contends, based on the judgment dated 23.11.2023 in W.P.(C) No. 27367 of 2023, that the proper remedy



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available to the petitioner is not direct recourse under Section 6 of the Land Tax Act, but rather to approach the statutory authorities under Section 27A of the Paddy Land Act.

19. In the aforesaid circumstances, I am of the considered opinion that the decisions pointed out by the petitioner cannot be accepted due to the specific factual matrix: the petitioner did not obtain an order under Clause 6(2) to convert the entire land under R.S. Nos. 157/3, 4, 5, 6, and 160/1 in Block No. 19, as per the Sub Collector's proceedings (Ext. P3) dated 17.12.2013. The benefits available under Rule 12(17) and Section 6A of the Land Tax Act can apply only to that specific extent of land (having a width of 6 meters and 125 meters length in the specified survey numbers) alone.

20. If the petitioner intends to change the tenure of the remaining land, the only remedy available is to approach the statutory authorities under Section 27A of the Paddy Land Act, which enables the petitioner to change the nature of an unnotified land. The petitioner may prefer an application under Section 27A, and the respective authorities shall consider the same within a period of six months from the date of preferring such an application. It is further



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declared that Ext. P5 order cannot be treated as an order passed under Clause 6(2), based on the aforementioned observations. An order issued under Clause 7, even if it directs the cultivation of specific crops or gives a general direction to cultivate other crops, cannot be construed as a permission under Clause 6(2).

Accordingly, the Writ Petition is disposed of as above.

Sd/-

P.M.MANOJ
JUDGE

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APPENDIX OF WP(C) NO. 26322 OF 2019

PETITIONER EXHIBITS

EXHIBIT P1 A TRUE COPY OF THE TAX RECEIPT DATED 5.10.2016 RELATING TO THE PROPERTIES OF THE PETITIONER.

EXHIBIT P2 A TRUE COPY OF THE JUDGMENT IN WPC NO. 26964 DATED 12.11.2013.

EXHIBIT P3 A TRUE COPY OF ORDER NO. H. 5810/13/K.DS DATED 17/12/2013.

EXHIBIT P4 A TRUE COPY OF THE KLU APPLICATION DATED 10.2.2014.

EXHIBIT P5 A TRUE COPY OF THE ORDER OF THE SUB-COLLECTOR DATED 7.1.2015 WITH TRANSLATION.

EXHIBIT P6 A TRUE COPY OF THE JUDGMENT IN WPC NO. 34153 OF 2014.

EXHIBIT P7 A TRUE COPY OF THE ORDER ISSUED BY THE DIST COLLECTOR, ON 13.7.2016 WITH TRANSLATION .

EXHIBIT P8 A TRUE COPY OF THE JUDGMENT DATED 17.7.201 N WPC NO. 33373 OF 22016.

EXHIBIT P9 A TRUE COPY OF THE ORDER DATED 6.2.2019 IN W.A. NO. 2142 OF 2018.

EXHIBIT P10 A TRUE COPY OF THE JUDGMENT DATED 11.2.2019 IN W.A. NO. 2142 OF 2018.

EXHIBIT P11 A TRUE COPY OF THE STATEMENT FILED ON BEHALF OF THE REVENUE DIVISIONAL OFFICER IN W.A. NO. 2142 OF 2018, WITHOUT EXHIBITS.

EXHIBIT P12 TRUE COPY OF THE APPLICATION ALONG WITH THE COVERING LETTER AND RECEIPT DATED 10.6.2019.