

(2015) 09 KL CK 0033

High Court Of Kerala

Case No: W.P.(C) No. 23503 of 2015

Joseph Thomas

APPELLANT

Vs

Agricultural Officer, Alappuzha
and OthersRESPONDENT

Date of Decision: Sept. 17, 2015**Acts Referred:**

- Kerala Conservation of Paddy Land and Wetland Act, 2008 - Section 9(8), 9(8)(ii)

Citation: (2015) 5 KHC 103**Hon'ble Judges:** A. Muhamed Mustaque, J.**Bench:** Single Bench**Advocate:** S. Sanal Kumar, M.T. Sureshkumar, T.J. Seema, Bhavana Velayudhan and Smitha Philipose, Advocates, for the Appellant; P.K. Soyuz, Special Government Pleader, for the Respondent**Final Decision:** Disposed Off

Judgement

A. Muhamed Mustaque, J.

The petitioner approached the Local Level Monitoring Committee for the purpose of reclamation of ten cents of paddy land for putting up a residential building for him and his family. The petitioner's family consists of him and his wife and children. The Local Level Monitoring Committee considered the petitioner's application and not recommended for the reason that the petitioner's father owns a suitable land for the purpose of constructing the residential building.

2. It is appropriate to refer Section 9(8) of the Kerala Conservation of Paddy Land and Wet Land Act, 2008 for the purpose of considering this issue, which reads as follows:

(8) Notwithstanding anything contained in sub-section (1), no application shall be considered by the District Level Authorised Committee, unless the Local Level Monitoring Committee has recommended that:

- i. such reclamation shall not adversely affect the ecological condition and the cultivation in the adjoining paddy land;
- ii. the owner of the paddy land or his family do not own a suitable land for this purpose in that District;
- iii. the building to be constructed is for his own purpose; and
- iv. such paddy land is not situated surrounded by other paddy lands.

The family as referred under Section 9(8)(ii) has to be understood in context when the petitioner seeks construction of a residential building for the purpose of family consists of him and his wife and children. The family has to be understood in that normative sense and cannot be stretched to an extent to include his father or grandfather etc. It is the family that has to be understood with reference to the need projected by the applicant for the purpose of construction. When the petitioner wants to set up residential building for him and his wife and children, that family has to be understood in that sense and not in larger sense that could be meant by practices or customs or under law.

Therefore, this Court is of the view, the rejection of petitioner's application on the ground that his father owns land is unsustainable. The petitioner has no case that he wants to put up a residential building for him along with his parents. Therefore, the decision of the Local Level Monitoring Committee is set aside. The Local Level Monitoring Committee is directed to reconsider the matter afresh in accordance with the procedure of the law and make appropriate remarks to the District Level Authorised Committee. Needful shall be done within two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.