

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

CRP.No. 142 of 2004 ()

**OA. NO.150/1973 OF LAND TRIBUNAL (LR. NO.I), KASARAGOD.
AA. NO.32/1996 OF APPELLATE AUTHORITY (LAND REFORMS), KANNUR.**

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REVISION PETITIONERS/RESPONDENTS 2 TO 18/PETITIONERS 2 TO 18:

- 1. MARIYAMMA, WIFE OF LATE ABDULLA HAJI.**
- 2. ABDULKHADER.**
- 3. HAMEED.**
- 4. ABDULRAHIMAN.**
- 5. SAFFIYA.**
- 6. MAMMUNHI.**
- 7. IBRAHIM.**
- 8. ABOOBACKER.**
- 9. SULAIMAN.**
- 10. BEEFATHUMMA.**
- 11. IQUBAL.**
- 12. JABBAR.**
- 13. ABDULLA. (MINOR).**
- 14. HANISA. (MINOR).**
- 15. MINIRIA (MINOR).**
- 16. MUNEER. (MINOR).**
- 17. MUSILA.**

**NOS.2 TO 9 ARE CHILDREN OF
ABDULLA HAJI AND NO.1 MARIYAMMA. NOS.10 TO 17 ARE
WIDOW AND CHILDREN OF MOHAMMED, NOS.13 TO 17 ARE
MINORS BY GUARDIAN MOTHER NO.10 BEEFATHUMMA.
ALL ARE RESIDING AT THOOKIMOOLE IN MUTTATHODY VILLAGE,
KASARAGOD TALUK AND DISTRICT, P.O.ALAMPADY.**

BY ADV. SRI.K.G.GOURI SANKAR RAI.

**RESPONDENTS/APPELLANTS AND RESPONDENTS 21, 22 AND 25 TO 47 AND
STATE/RESPONDENTS 3, 4, 7 TO 19 AND LEGAL REPRESENTATIVES OF
RESPONDENTS 5 AND 6 AND STATE:**

***1. UMMALIMMA, W/O. M.P. SHEIK MOIDEEN HAJI,
RESIDING AT UDAYAVAR VILLAGE,
KASARAGOD TALUK, P.O. MANJESHWAR. (DELETED)**

***2. T.M. AYISABI, W/O. C. ABDUL HAMEED,
RESIDING AT FALNIR, MANGALORE P.O.,
MANGALORE-2. (DELETED)**

**3. K.V.P. NAFEEESABI,
W/O. LATE T.M. HASSANKUTTY,
RESIDING AT TALANGARE HOUSE,
TALANGARE VILLAGE, KASARAGOD TALUK,
P.O. KASARAGOD.**

4. K.V.P. AYSHA, W/O. T.M. HASSAN KUTTY.

**5. T.H. MOHAMMAD GHANI,
S/O. LATE HASSAN KUTTY.**

6. T.H. ABDULKHADER, S/O. LATE HASSAN KUTTY.

**7. T.H. MARIYAMMA,
D/O. LATE T.M. HASSAN KUTTY AND
W/O. T.P.M. ABDULKHADER, RESIDING AT
KOLOTH IN PAYYANNUR., P.O. PAYYANNUR.**

***8. T.H. AYSHATH RAMLA,
D/O. LATE T.M.HASSAN KUTTY AND
W/O. T.C. BASHEER AHAMMAD,
RESIDING AT KAPIL IN UDMA VILLAGE
AND POST, HOSDURG TALUK. (DELETED)**

**9. T.H. ABDUL FEROZ,
S/O. LATE T.M. HASSAN KUTTY.**

10. T.H. SAIRA BANU, DO. (MINOR).

11. T.H. NAUFAL, (MINOR).

**12. T.H. HAKIM AJMEER,
(MOTHER 4TH RESPONDENT).**

***13. MOHAMMAD, S/O. ABDULKHADER,
MUTTATHODY VILLAGE, KASARAGOD P.O.,
MUTTATHODY. (DELETED)**

14. MOHAMMAD, S/O. ABDULRAHIMAN.

15. HAMEED, S/O. ABDULRAHIMAN.

NOS.14 AND 15 ARE RESIDING AT ALAMPADY IN
MUTTATHODY VILLAGE, KASARAGOD TALUK,
P.O. ALAMPADY.

16. M.K. MOHAMMED KUNHI.

17. K. MOHAMOOD HAJI.

18. K. ABDUL JALEEL.

19. K. BASHEER.

20. K.M. KUNHAMINA.

21. K. MOHAMMAD ASHRAF.

*22. DR. T. NOORUDDIN. (DELETED)

*23. ABDUL HAKEEM. (DELETED)

24. T. IBRAHIM KHALEEL.

25. NAFEESEATH BEEBI,
W/O. Y. MOHAMMED KUNHI.

*26. KAMARUNNISA, W/O. LATE P.A. MOIDU. (DELETED)

* RESPONDENTS 1, 2, 8, 13, 22, 23 & 26 ARE DELETED FROM THE
PARTY ARRAY AT THE RISK OF THE PETITIONER AS PER ORDER
DATED 31/10/2012 IN I.A. NO.655/2008.

27. FATHIMATH ZOHARA,
W/O.A. SIRAJ.

NOS.4 TO 6 AND 9 TO 12 ARE RESIDING AT
THALANGARE VILLAGE, KASARAGOD TALUK,
P.O. KASARAGOD.

NOS.10 TO 12 ARE MINORS,
REPRESENTED BY GUARDIAN MOTHER
K.V.P.AYSHA. NOS.16 TO 19 ARE CHILDREN
OF RUKIABI AND ARE RESIDING AT KADAVATH IN
THALANGARE VILLAGE, KASARAGOD TALUK,
P.O. KASARAGOD.

NOS. 20 IS THE WIDOW OF ABDULLA KUNHI
AND NOS.21 TO 27 ARE CHILDREN
OF K.M. KUNHAMINA AND ABDULLAKUNHI.
ALL ARE RESIDING AT THALANGARE BANGLOW
IN THALANGARE VILLAGE, KASARAGOD TALUK,
P.O. KASARAGOD.

CRP.No. 142 of 2004

**28. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.**

R28 BY GOVT. PLEADER SRI.C.K. JAYAKUMAR.

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 12-01-2015, ALONG WITH CRP. NO.188 OF 2004 AND CONNECTED
CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rs.

P.BHAVADASAN, J.

C.R.P. Nos. 142, 188, 189, 193,
194, 209, 215 & 229 of 2004

Dated this the 12th day of January, 2015

ORDER

All these petitions arise out of a common order dated 12.11.2001 by the Appellate Authority (Land Reforms) Kannur except C.R.P. 215/2004, whereby, appeals as A.A.Nos. 32/96, 33/96, 37/96, 38/96, 39/96 and 40/96 were allowed. C.R.P.No. 215/2004 arises out of order dated 12.11.2001 from A.A.28/96.

2. O.A.Nos.150/1973, 403/1976, 1668/1975, 689/1975, S.M.Nos. 319/73, 334/73 and 335/73 were disposed of by a common order dated 26.08.1992. S.M. No. 49/1993 was disposed of by order dated 31.05.1995.

3. The original applications were filed under Section 72 B of the Kerala Land Reforms Act seeking to have the right, title and interest of the landlord transferred in favour of the respective tenants. Some of the proceedings were

initiated *suo motu* and on motion by the counsel concerned, all the cases were tried together. Initially, O.A.s were disposed of which were challenged in appeal and in appeal, the appeals were allowed and they were remanded to the Land Tribunal. The Land Tribunal disposed of the matter afresh from which the appeals arose, which is the subject matter of these revision petitions.

4. In all the applications, the respective claimants produced several documents in support their claims and they adduced evidence also. It is to be noticed that dispute in all these cases was between the rival claimants of tenancy. The evidence consists of Exts. P1 to P81 and Exts. R1 to R24. Court exhibits were also marked.

5. After appreciation of the evidence in the case, O.A.Nos.150/1973, 403/1976, 1668/1975, 689/1975 were allowed and S.M.Nos. 319/73, 334/73 and 335/73 were dismissed as the claimants in the respective cases were unable to prove tenancy right in the proceedings set up in

their favour.

6. As far as S.M.No. 49/1993 was concerned, it was a *suo motu* proceedings initiated, which after trial, resulted in allowing the application and purchase certificate be directed to be issued by the land Tribunal concerned.

7. The persons who were applicants in the *suo motu* proceedings and whose rights were declined, had appealed against the orders. The appellate authority by the impugned order, disposed of the appeals as already stated.

8. The learned counsel appearing for the revision petitioners in these cases pointed out that before the Land Tribunal as many as 81 documents were produced from the petitioners' side and 29 documents were produced from the respondents' side. It was after elaborately considering the evidence before the Land Tribunal that the Land Tribunal allowed the O.A. applications and dismissed the *suo motu* proceedings.

9. It was contended that the appellate authority, without advertng to any of the documents and without referring to any of the document has simply disposed of the appeals without going into the merits at all. That affected the right of parties. There is no consideration of the claims put forward by the respective appellants but the appellate authority has simply referred the finding of the Land Tribunal and disposed of the appeals.

10. On going through the order of the appellate authority, there seems to be considerable force in the above submission. In none of the appeals, there is any discussion of the documents produced by the respective parties and all that is stated is that appellate authority has gone through the records of the case and holds against the parties concerned. It is seen that none of the documents produced by the respective parties have been referred to. There was no attempt to find out whether the finding of the Land Tribunal with respect to the applicants is justified or not.

The appellate authority was of the view that it is unable to understand how some of the findings were entertained by the Land Tribunal and how the rent receipts could have been accepted. The claimants had produced basic tax receipts, building tax receipts, copy of permission granted to put up a building etc.. The Land Tribunal felt that there were enough materials to substantiate the claim of tenancy.

11. However, as already noticed, various documents produced by the respective parties are not seen adverted to at all. The Land Tribunal has considered each of the documents and has found that some of the applicants are entitled to purchase certificate. It is not discernible from the order of the appellate authority as to how the appellate authority came to the conclusion that the findings arrived at by the Land Tribunal is erroneous.

12. The result is that there has not been a proper consideration of the appeals by the appellate authority and appellate authority has disposed of the matter without

adverting to the various documents produced by the claimants.

13. For the above reasons, these petitions are allowed and the matter is remanded to the appellate authority for fresh disposal in accordance with law and in the light of what has been stated above.

Parties shall appear before the appellate authority on **16.02.2015** and the appellate authority shall dispose of the matter within three months from the date of appearance.

Sd/-
P.BHAVADASAN
JUDGE

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P.A. to Judge