

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 29TH DAY OF MAY 2015/8TH JYAISHTA, 1937

CRP.No. 29 of 2006 ()

A.A 26/1992 of APPELLATE AUTHORITY (LR), KANNUR.
O.A. NO. 747/1976 OF LAND TRIBUNAL NO.II, KASARAGOD.

REVISION PETITIONER(S)/LRS OF 3RD RESPONDENT IN
O.A./RESPONDENTS 4 TO 6 IN A.A.:

1. KARTHYAYANI, WIDOW OF LATE MADHAVAN NAIR,
BANDAGADDE OF NETTANIGE VILLAGE,
POST KAKKEBETTUR (VIA), MULLERIA, KASARGODE TALUK.
2. GAYATHRI, D/O.LATE MADHAVAN NAIR,
BANDAGADDE OF NETTANIGE VILLAGE,
POST KAKKEBETTUR (VIA), MULLERIA,
KASARAGODE TALUK.
3. JAYASREE, D/O.LATE MADHAVAN NAIR,
BANDAGADDE OF NETTANIGE VILLAGE, POST
KAKKEBETTUR (VIA), MULLERIA, KASARGODE TALUK.

BY ADVS.SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENT(S)/APPLICANTS 1, 3 & 4 AND 2ND RESPONDENT IN
O.A. & NON PARTY:

1. B.RADHAKRISHNA KADAMBALITHAYA,
S/O.VISHNU KADAMBALITHAYA, SUPERINTENDENT
GOVERNMENT POLYTECHNIC FOR WOMEN, BANGALORE-4.
2. B.RADHAKRISHNA RAO, S/O.SUBRAYA KALLURYA
BANADAGADDE, NETTANIGE VILLAGE,
KASARAGODE TALUK. (DIED; LRS. IMPEADED)
3. P.KUSUSMA KARANTHA,
W/O.VASUDEVAN KARANTH, BANADAGADDE,
NETTANIGE VILLAGE, KASARAGODE TALUK.
4. SHARADAMMA, W/O.NARAYANAN NAIR,
BARIKE, NETTANIGE VILLAGE, KASARGODE TALUK.

5. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

ADDL. R6 TO R9 IMPEADED.

6. VASANTHI RAO,
WIDOW OF B. RADHAKRISHNA RAO,
BANADAGADDE, NETTINGE VILLAGE,
KASARAGODE TALUK - 671 121.
7. B. SUDHIR,
S/O. B. RADHAKRISHNA RAO,
BANADAGADDE, NETTANIGE VILLAGE,
KASARAGODE TALUK - 671 121.
8. B. SUMANTH,
S/O. B. RADHAKRISHNA RAO,
BANADAGADDE, NETTANIGE VILLAGE,
KASARAGODE TALUK - 671 121.
9. SUPRIYA,
D/O. B. RADHAKRISHNA RAO,
BANADAGADDE, NETTANIGE VILLAGE,
KASARAGODE TALUK - 671 121.

ADDL. RESPONDENTS 6 TO 9 BEING THE LEGAL HEIRS OF
THE DECEASED 2ND RESPONDENT ARE IMPEADED VIDE ORDER DT.
25.9.2014 IN I.A. 2841/12 IN C.R.P. 29/06.

R3, R6 TO R9 BY ADV. SRI.P.B.KRISHNAN
BY ADV. SMT.GEETHA P.MENON
BY ADV. SRI.N.AJITH
BY ADV. SRI.P.M.NEELAKANDAN
BY ADV. SRI.P.B.SUBRAMANYAN
R5 BY SPL. GOVERNMENT PLEADER SMT. SUSHEELA BHAT.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 29-05-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

P. BHAVADASAN, J.

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C.R.P. No. 29 of 2006
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Dated this the 29th day of May, 2015.

ORDER

This Civil Revision Petition is directed against the order dated 28.7.2005 in A.A. No. 26 of 1992. That appeal arose out of an order dated 30.9.1989 in O.A. No. 747 of 1976 of Land Tribunal Kasaragod.

2. Respondents 1 to 3 in this revision petition filed O.A. 747 of 1976 under Section 72B of the Kerala Land Reforms Act for assignment of right, title and interest over certain parcels of land. The Land Tribunal by order dated 30.9.1989 did not accept the case put forward by the applicants and dismissed their application. The aggrieved applicants preferred A.A. 26 of 1992. The Appellate Authority simply remanded the matter and that order is assailed in this revision.

3. Learned counsel appearing for the revision petitioners pointed out that no reasons are given by the appellate authority to justify the remand. It is significant, according to the learned counsel that the appeal was out of time and was not accompanied by a delay condonation petition. That aspect was not noticed by the Appellate Authority and nothing is stated by the Appellate Authority. There is also no consideration of the matter by the Appellate Authority. None of the contentions raised have been considered.

4. Learned counsel appearing for the respondents pointed out that if this Court accepts the above contention, this Court may remand the matter to the Appellate Authority for fresh consideration.

5. After going through the order of the Appellate Authority, it is felt that the Appellate

Authority has not considered the matter on merits and has simply remanded the matter to the Land Tribunal. It is significant to notice that the Land Tribunal disposed of the matter on 30.9.1984 and the appeal was filed only in 1992. The petitioners have a case that they have urged before the Appellate Authority that the appeal is not maintainable as it is out of time. This does not appear to have been dealt with by the Appellate Authority. Whatever that be, in the nature of the order passed, it is only appropriate that the matter be sent back to the Appellate Authority for fresh consideration in accordance with law and after hearing both the parties and on the basis of the materials before it.

In the result, the order of the Appellate Authority is set aside and the matter is remanded to the Appellate Authority (Land Reforms), Kannur for consideration after taking note of the

contentions raised by the parties and after going through the records in the case. The parties shall appear before the Appellate Authority on 24.6.2015. The matter shall be disposed of within six months of appearance of parties.

sb.

P. BHAVADASAN,
JUDGE