

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

CRP.No.1143 of 2004 (C)

AGAINST THE ORDER IN AA 192/2000 of APPELLATE AUTHORITY (LR),
ALAPPUZHA DATED 16-04-2004

AGAINST THE ORDER IN OA 183/1998 of LAND TRIBUNAL, ERNAKULAM

REVISION PETITIONER/RESPONDENT/DEFENDANT NO.9 IN O.S.NO.10 OF
1992/ APPLICANT IN O.A 183/98:

K.S. DHARMARAJAN, RESIDING AT
C.C.NO.1/1514, FORT KOCHI VILLAGE, KOCHI TALUK,
KOCHI-1.

BY ADVS.SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS/APPELLANT/2ND RESPONDENT/PLAINTIFF &
STATE/RESPONDENT IN O.A 183/98:

1. AUGUSTINE, S/O. XAVIER, MALIAKKAL HOUSE,
KUNNUR MURI, THIRUMANGALAM. (DIED).
2. MR. UPENDRA NAIK, ADVOCATE, CHERTHALA. (DELETED AS
PER ORDER DTD.27.5.10 IN I.A.887/09).
3. STATE OF KERALA, REPRESENTED BY THE
DISTRICT COLLECTOR, ERNAKULAM.

ADDL.R4 IMPEADED

ADDL.R4 JOJO AUGUSTINE, AGED 53 YEARS,
S/O. LATE AUGUSTINE, RESIDING AT MALIAKKAL,
THIRUMANGALAM, MUKUNDAPURAM TALUK, THRISSUR
DISTRICT. (IMPEADED AS ADDITIONAL R4 AS PER ORDER
DTD. 14.01.09 IN I.A.52/09 IN CRP 1143/2004).

ADDL. RESPONDENTS 5 TO 8 IMPEADED

ADDL.R5 GRACY, W/O. LATE AUGUSTINE, MALIAKKAL HOUSE,
THIRUMANGALAM, MUKUNDAPURAM TALUK, THRISSUR.

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ADDL.R6 PRINCE @ FRANCIS, -DO- -DO-

ADDL.R7 ROY @ RAFEL, -DO- -DO-

ADDL.R8 MINI, W/O.JOY, MANAPARAMBIL HOUSE, POYYA P.O.,
MANALIKKADU, MALA, THRISSUR DISTRICT.

(ADDL. R5 TO R8 IMPEADED AS THE LR_s OF DECEASED R1 AS
PER ORDER DTD.27.5.10 IN I.A.890/09 IN CRP. 1143/04).

(R2 DELETED FROM THE PARTY ARRAY AS PER ORDER
DTD.27.5.2010 IN I.A.887/09 IN CRP 1143/2004).

ADDL.R4 BY ADV. SRI.MANUEL KACHIRAMATTAM
ADDL.R4 BY ADV. SMT.MERRY GEORGE
R3 BY GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
31-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

Civil Revision Petition No.1143 OF 2004

Dated this the 31st day of August, 2015.

O R D E R

A very short question arises for consideration in this revision petition under Section 103 of Kerala Land Reforms Act. It is not in dispute that the 1st respondent herein filed a suit for declaration of title over the plaint schedule properties and also for recovery of possession as O.S.No.10/1991 in which the 9th defendant, who is the revision petitioner herein, set up a claim of kudikidappu.

2. The 9th defendant filed an independent O.A as O.A No.172/1992 before the Land Tribunal, Vyppin which was transferred to Land Tribunal, Ernakulam and re-numbered as O.A No.183/1998. As enjoined under Section 125(3) of the Kerala Land Reforms Act, the Civil Court referred the issue of kudikidappu to the Land Tribunal concerned. The Land Tribunal clubbed the O.A filed by the 9th defendant with the Reference Case and after evaluating the materials before it found that the

9th defendant is entitled to kudikidappu right and returned that finding to the Civil Court. The suit was ultimately dismissed. There is considerable difference of opinion regarding the reason for dismissal of the suit. But the fact remains that the suit has been dismissed. The 1st respondent thereafter filed an independent appeal purporting to be against the order in the application filed by the 9th defendant. That was allowed by order dated 16.04.2004. The said order is under challenge.

3. It is trite that when there is a reference by the Civil Court, independent O.A ceases to exist and there is consolidation of proceedings resulting in single proceeding remaining in existence. Once Land Tribunal returns its findings to the Civil Court, the Civil Court is bound to accept the same. It is not as if the aggrieved person is not having a remedy. While challenging the decree dismissing the suit, the plaintiff can assail the propriety, illegality and irregularity of the finding of the Land Tribunal. But it is by now well settled that an independent appeal before the Land Reforms Appellate Authority is not maintainable since the order of the Land Tribunal became a part of the

judgment of the trial court.

In the result, this Civil Revision Petition is allowed and the order dated 16.04.2004 passed by the Appellate Authority is set aside leaving open the right of the 1st respondent to agitate his claim if he is entitled in law before the appropriate forum.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True Copy //

P.A to Judge.