

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

CRP.No. 153 of 2009 ()

**AGAINST THE ORDER/JUDGMENT IN CC 848/1973 of TALUK LAND BOARD, CHITTUR
DATED 28-11-2008**

REVISION PETITIONER(S):

- 1. THANKAMANI, AGED 68 YEARS,
W/O. MANIYAN, RESIDING AT KUTTALAMKUNNU, MAVWKKAD
PERUVEMBA AMSOM, PALGHAT TALUK, PALGHAT DISTRICT.**
- 2. PARVATHI, AGED 70 YEARS,
W/O. KUTTIYAPPU, KUMCHAMMA NIVAS, THANNISSERI VILLAGE
PALGHAT TALUK, PALGHAT DISTRICT.**

BY ADV. SRI.S.K.MURALEEDHARA KAIMAL

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM.**
 - 2. THE TALUK LAND BOARD,
CHITTUR, REPRESENTED BY ITS CHAIRMAN.**
 - 3. THE TAHSILDAR,
CHITTUR TALUK, PALGHAT DISTRICT.**
- *ADDL.R4. PARVATHY, D/O. PONNUKUTTY, MANGOTTUKALAM,
PATTANCHERI, CHITTUR TALUK,
PALGHAT DISTRICT.**
- *ADDL.R5. SABHAPATHY, W/O. MURUGAN, MANGOTTUKALAM,
PATTANCHERI, CHITTUR TALUK,
PALGHAT DISTRICT.**
- *ADDL.R6 SUBALYAHAN, S/O. MURUKAN, MANGOTTUKALAM,
PATTANCHERI, CHITTUR TALUK,
PALGHAT DISTRICT.**
- *ADDL.R7. SAJITH, S/O. MURUGAN, MANGOTTUKALAM,
PATTANCHERI, CHITTUR TALUK,
PALGHAT DISTRICT.**

CRP No. 153 of 2009 ()

***ADDL.R8. SUNIL, S/O. MURUGAN, MANGOTTUKALAM,
PATTANCHERI, CHITTUR TALUK,
PALGHAT DISTRICT.**

***(ADDL. RESPONDENTS 4 TO 8 ARE IMPEADED VIDE ORDER DT. 25.09.2014 IN I.A.
849/09 IN CRP 153/09)**

**BY SPECIAL GOVERNMENT PLEADER SMT. SUSHEELA BHAT
ADDL.R4 TO R8 BY ADV. SRI.A.K.MADHAVAN UNNI
ADDL.R4 TO R8 BY ADV. SRI.S.RAMACHANDRAN**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
27-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ds

P.BHAVADASAN, J.

C.R.P. No. 153 of 2009

Dated this the 27th day of May, 2015

ORDER

This revision is directed against the order dated 28.11.2008 passed by the Taluk Land Board, Chittur whereby, the legal heirs of the deceased declarant were directed to surrender 5.67 acres of land.

2. Ceiling proceedings were initiated against Sri. Murugan and as per order dated 12.01.1976. He was directed to surrender 5.67 acres of land. That was challenged in C.R.P.No.426/76 before this Court and by order dated 05.10.1976, this Court set aside the order of the Taluk Land Board. Taluk Land Board thereafter, passed orders on 31.03.1980 by accepting the claims of Smt. Parvathy and Thankamani and ordered the declarants to surrender an extent of 1.96 acres of land. The Government filed revision against the orders of the Taluk Land Board before this Court and this Court in C.R.P. No. 1089/1981 by order dated

07.12.1985 set aside the orders of the Taluk Land Board and directed the Taluk Land Board to reconsider the matter. The matter went back to the Taluk Land Board which on re-assessment of the materials, came to the conclusion that the declarant was not liable to surrender any extent of land. That order dated 11.02.1987 was challenged by the State in C.R.P. 990/1988 before this Court and this Court disposed of the revision petition by order dated 09.12.1988, the operative portion of which reads as follows:

“5. This Court by order on C.R.P. 1089/81 held that the Taluk Land Board had no jurisdiction to reopen its order dated 12-1-1976 under Section 85(9) of the Kerala Land Reforms Act. The orders dated 17-5-1978 and 31-3-1980 were passed under Section 85(9) of the K.L.R. Act. The contention that the order dated 17-5-1978 was not specifically set aside and therefore the Board was bound to pass a fresh order, cannot be accepted in view of the fact that this Court held in C.R.P.1089/81 that the Taluk Land Board had no jurisdiction under Section 85(9) to reopen its order which was confirmed by this Court. In view of this the

Taluk Land Board was only to consider whether the delay in filing the Section 85(8) petition was to be condoned or not. In view of the decision that there were no sufficient reasons to condone the delay, nothing further was to be done apart from dismissing the Section 85 (8) petition. The order dated 12-1-1976 as confirmed by this Court is the order that is binding on the parties. In view of that the 1st respondent will be liable to surrender 5 acres 67 cents as excess land under the Taluk Land Board's order dated 12-1-1976. The order under challenge is accordingly set aside. Learned counsel for the respondents prays that an opportunity to file a fresh option statement may be given to them. I am of the view that this request can be allowed in view of the pendency of several petitions after the passing of the order dated 12-1-1976. The respondents are given one month's time from the date of receipt of records by the Taluk Land Board to file a fresh option. The Taluk Land Board will consider that and accept it subject to Section 85(6) of the Kerala Land Reforms Act.

C.R.P. allowed as above. No costs."

3. In spite of repeated opportunity is given to the declarant to file the option statement, nothing was done in the matter and therefore by order dated 31.03.2000, Taluk Land Board ordered to surrender an extent of 3.71 acres of land in addition to the extent of 1.96 acres already surrendered.

4. The learned counsel appearing for the petitioners contended that the Taluk Land Board has misdirected itself in law in considering the quantum of shares available to the two petitioners namely Parvathy and Thankamani who are the sisters of the declarant and thus serious injustice has been caused to them. The share taken by the Taluk Land Board as per the original order is not correct and that has caused considerable prejudice to the petitioners.

5. Smt. Susheela Bhat, the learned Special Government Pleader appearing for the State contended that this contention from the petitioners comes far too late and cannot be sustained in view of the order in C.R.P. 990/88

which was disposed of by order dated 09.12.1988.

6. After having heard the learned counsel on both sides, it is felt that there is considerable force in the submission made by the learned Special Government Pleader. This Court observed in paragraph 3 of the order dated 09.12.1988 that this Court had permitted respondents 4 and 5 therein who are petitioners herein to file a petition to condone the delay in filing the petition under Section 85 (8) of the Kerala Land Reforms Act.

7. This Court, in its order, found that Taluk Land Board took the view that there was no reason to condone the delay and had dismissed the application. Then thereafter, this Court noticed that the Taluk Land Board had considered the matter afresh.

8. Before this Court, the learned Special Government Pleader urged that after the order in C.R.P. 1089/1981 setting aside the Taluk Land Board's order dated 31.03.1988, Taluk Land Board was not entitled in law to

reconsider the case. However, the respondents before this Court contended that it is not so and the Taluk Land Board is bound to pass a fresh order.

9. After considering the rival contentions, this Court took the view, that has already been referred to in this order. In the light of the decision rendered by this Court, the Taluk Land Board was bound by the order of this Court and it was found by this Court categorically that the declarant is liable to surrender 5.67 acres of land as per the original order dated 12.01.1976. As rightly pointed out by the learned Special Government Pleader, it comes too late in the day for the petitioners now to contend that the shares have not been properly concerned. If they had any such grievance, they should have agitated in the previous proceedings. Having not done so and having suffered an order directing the Taluk Land Board to take possession of 5.67 acres of land, the petitioners cannot be heard to say that they should be allowed to re-agitate the issue.

This revision is without merits and it is accordingly dismissed.

Sd/-
P.BHAVADASAN
JUDGE

ds

//True copy//

P.A. to Judge