

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

CRP.No. 833 of 2007

SMP 11/1997 OF TALUK LAND BOARD, NILAMBUR
.....

PETITIONER(S):

- 1. N.BASHEER MUHAMMED, S/O.NEELANGADAN MOOSA,
PORUR VILLAGE, POST PORUR,
VIA. VANIYAMBALAM, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**
- 2. N.ABDUL SALAM, S/O. -DO- -DO-**

**BY ADVS.SRI.S.ANANTHAKRISHNAN
SRI.N.K.SUBRAMANIAN**

RESPONDENT(S):

- 1. THE TALUK LAND BOARD, NILAMBUR.**
- 2. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT,
TRIVANDRUM.**
- * ADDITIONAL R3 IMPEADED.**
- 3. ABRAHAM JOSEPH, S/O.JOSEPH,
PORUR POST, VIA VANIYAMBALAM,
NILAMBUR TALUK, MALAPPURAM DISTRICT.**
- * ADDITIONAL R3 IMPEADED AS PER ORDER DTD.9.2.2015
IN IA.3021/2012 IN CRP.NO.833/2007.**

R1 & R2 BY SPECIAL GOVERNMENT PLEADER SMT.SUSHEELA BHAT

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
09-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

P. BHAVADASAN, J.

C.R.P. No. 833 of 2007

Dated this the 9th day of February, 2015.

ORDER

A proceedings which started in the year 1997 still continues with the same vigor and force. The original declarant is no more and his legal heirs continue the proceedings.

2. The original declarant was issued with a draft statement to which he filed his objection and after considering his objections, he was asked to surrender 2.08 acres of land equivalent to 0.83 standard acres of land from Sy. No. 218/1.

3. Subsequently, taking recourse to Section 85 (9A) of the Kerala Land Reforms Act, proceedings were re-opened on the basis that there were certain mistakes committed by the Taluk Land Board and the declarant was directed to surrender 16.33 ordinary acres from Sy. No.

218/1. That order was at a time when it had already been found that the declarant was in possession of 4 acres out of which 2.08 acres was directed to be surrendered. Again, that order was challenged before this Court and this Court found that the proceedings were not justifiable in law. This Court found that two items of properties, one having 4.10 acres and another having 1.62 acres were not in the possession of the declarant and therefore those items could not be taken into consideration. Subsequent to that, proceedings were continued and by order dated 12.7.2007 the petitioners were directed to surrender 6.58 ½ acres of land.

4. In the draft statement served on the declarant originally, the extent of property which the declarant was alleged to be in possession of in Sy. No. 218/1 was shown as 10.57 acres. The declarant was found to be in actual possession of only 4 acres and it was thereafter he was directed to surrender 2.08 acres from Sy. No. 218/1.

5. In the order dated 12.7.2007, it is observed as follows:

"On conclusion of the re-opening proceedings legal heirs of the declarant are directed to surrender 16.33 ordinary acres from Sy. No. 218/1."

One fails to understand from where the Taluk Land Board obtained the above data as none of the earlier proceedings mentioned that the petitioner had 16.33 acres of land in Sy. No. 218/1. It is significant to notice that the order dated 12.7.2007 is not accompanied by the statement that needs to be appended to the order. So it is not possible to ascertain the details.

6. Therefore, it can be seen that even going by the proceedings of the Taluk Land Board, at one point of time they say that the declarant was in possession of 16.33 acres in Sy. No. 218/1 while in another occasion they say that he was in possession of 10.57 acres.

7. It needs to be noticed at this point of time that 6.57 acres was already exempted by the earlier order. In the light of the decision reported in **Sahadevan v. State of Kerala** (2008(2) K.L.T. 573) that finding could not be re-opened.

8. It is an admitted fact that the declarant had surrendered 2.08 acres from Sy. No. 218/1. In the order under challenge, the petitioners were again made liable to surrender 3.56 ½ acres from Sy. No. 218/1, 4.26 acres from Sy. No. 385/1 and 2.32 ½ acres from Sy. No. 298/2. As already stated, the statement containing the details of the land possessed by the declarant, the land in respect of which he is entitled to exemption and the land not in his possession are not seen appended to. It is also seen from the records that serious mistakes have been committed in the conversion of ordinary acres into standard acres.

9. On a critical evaluation of the order under challenge, it is seen that there is no justification at all in

re-opening the order since the declarant has already surrendered 2.08 acres in Sy. No. 218/1 and there is absolutely no material to show that the declarant was ever in possession of 16.33 acres in Sy. No. 218/1. Normally the matter should go back to the Taluk Land Board for fresh consideration.

10. The agony of the declarant began in 1997 and we are in 2015. More than 18 years have elapsed. Again to send back the matter for fresh consideration will not be in the interests of the legal heirs who have already surrendered 2.08 acres of land from Sy. No. 218/1.

11. In the result, since it is felt that there is no need to send back the matter for fresh consideration, it is ordered that the petitioners are liable to surrender no further land than 2.08 acres which has already been surrendered in Sy. No. 218/1. No further proceedings shall be taken in this regard.

This Civil Revision Petition is allowed to the above extent.

P. BHAVADASAN,
JUDGE

sb.

In final order dated 09/02/2015 in C.R.P.833/2007, the year mentioned as '**1997**' , in paragraphs 1 and 10, is corrected as '**1977**' and in paragraph 10, the words, "**More than 18 years**" are corrected as "**More than 38 years**", vide order dated 26/03/2015 in I.A. 674/2015 in C.R.P.833/2007.

Sd/-
Registrar (Judicial)