IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

CRP.No. 948 of 2007 ( )

AGAINST THE ORDER IN A.A.NO. 87/1990 of APPELLATE AUTHORITY (LR), KANNUR DATED 18-04-2007

AGAINST THE ORDER IN O.A.NO.18387/1975 OF SPECIAL TAHSILDAR (LR) VI (LAND TRIBUNAL) TALIPARAMBA DATED 29.03.1976

REVISION PETITIONER(S)/THIRD PARTY APPELLANTS IN AA:
----

1. KANDAMITTA JANAKI, W/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

2. K.V.DAMODARAN, S/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

3. K.V.CHANDRAN, S/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

4. K.V.THAMPAN, S/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

5. K.V.NARAYANAN, S/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

6. SAVITHRI K.V., D/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

7. BINDU K., D/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

8. LATHA K.,D/O.LATE KUNHIKANNAN,
PERALAM, P.O.KOZHUMMAL, KANNUR DIST.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S)/RESPONDENTS:
----

1. THE MANAGER, PERALAM DEVASWOM,
PERALAM, P.O.KOZHUMMAL, VIA PAYYANNUR,
KANNUR DIST.

*2. KOTTOL CHIRI, PERALAM AMSOM DESOM,
P.O.KOZHUMMAL, VIA PAYYANNUR,
KANNUR DIST. (DIED. LRS IMPLEADED)

3. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIATE, THIRUVANANTHAPURAM.

4. LAKSHMI, D/O.KUNHIKANNAN, PEERALAM AMSOM AND DESOM, P.O.KOZHUMMAL, VIA PAYYANNUR, KANNUR DIST.

*ADDITIONAL RESPONDENTS 5 TO 14:

ADDL.R5. SANTHA VADAKKEPURAYIL, W/O.LATE KRISHNAN K. THIMIRI, CHERUVATHUR P.O., KASARAGOD-671313.

ADDL.R6 SUJITHA V., D/O.LATE KRISHNAN K THIMIRI, CHERUVATHUR P.O., KASARAGOD-671313.

ADDL.R7. SUJIN V., S/O.LATE KRISHNAN K., THIMIRI, CHERUVATHUR P.O., KASARAGOD-671313.

ADDL.R8. THAMBAI K., D/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R9. GOVINDAN K., S/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R10. RAMAKRISHNAN K., S/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R11. SHYAMALA K., D/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R12. KARUNAKARAN K., S/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R13. GOPALAKRISHNAN K., S/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.R14. NARAYANAN K., S/O.LATE KOTTOL CHIRI, PERALAM, P.O.KOZHUMMAL, KANNUR-670 521.

ADDL.RESPONDENTS 5 TO 14 BEING THE LEGAL HEIRS OF THE DECEASED 2ND RESPONDENT ARE IMPLEADED VIDE ORDER DATED 24.09.2014 IN IA NO.2193/2011 IN CRP NO.948/2007.

R2,ADDL.R6 & ADDL.R8 TO ADDL.R14 BY ADV. SRI.M.V.AMARESAN
R3 BY GOVERNMENT PLEADER SHRUI K.K.SAIDALAVI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 28-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A.HARIPRASAD, J.

C.R.P. No.948 of 2007

Dated this the 28th day of January, 2015

ORDER

Petitioners challenge the order passed by the Appellate Authority (Land Reforms), Kannur in A.A.No.87 of 1990 whereby the Presiding Officer confirmed the order of the Land Tribunal finding that the petitioners are not cultivating tenants in respect of the property involved in the case.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

3. Facts, in nut shell, relevant for decision are as follows: Revision petitioners are third parties to the Land Tribunal proceedings which culminated in A.A.No.87 of 1990. Revision petitioners contended that they are aggrieved by issuance of purchase certificate to the applicant in O.A.No.18387 of 1975 before the Land Tribunal concerned. Deceased 1st appellant was the actual owner of the property. The property originally belonged to the Peralam Devaswam in jenm. By way of a registered deed of the year 1946 (Ext.A1) the deceased 1st appellant acquired tenancy right over the property having an extent of 1.08 acres in R.S.No.104/1A of Peralam Village. He was paying purappad to the Ooralanmars of

Devaswom. Thereafter, the deceased 1st appellant assigned the property to one Erathepurayil Kunhiraman in the year 1975 (Ext.A13). Deceased 1st appellant was given possession of the property on an oral entrustment. Thereafter, another document was executed in the year 1989 assigning the property in favour of the deceased 1st appellant. Ignoring all these documents, the Land Tribunal issued purchase certificate in the name of the contesting respondent.

4. Contesting respondent would contend that the property was outstanding in his possession as on 01.01.1970 as cultivating tenant. The revision petitioners have no right or possession over the property. There is no illegality or irregularity in the impugned order.

5. Fact that the property originally belonged to the deceased 1st appellant cannot be disputed. As per Ext.A1, a registered document, executed on 04.01.1946 the property was outstanding in the possession of the deceased 1st appellant. To show that he was holding the property as a tenant, Exts.A2 to A9 have been produced. But the Appellate Authority found that as required in Ext.A1, the right conferred on the tenant thereunder was not renewed by the deceased 1st appellant. It is seen from Exts.B1 to B3 that the property was handed over to the contesting

respondent. As on the date of commencement of the Kerala Land Reforms Act, 1963 (in short, “the Act”) the contesting respondent was in possession of the property. Section 72 of the Act clearly show that the jenm right of all the properties outstanding in the possession of cultivating tenants shall vest with the Government. Thereafter the cultivating tenant shall purchase jenm right through the Land Tribunal concerned. Section 74 of the Act declares a statutory bar for creating tenancies subsequent to the commencement of the Act, ie., after 01.01.1970. Exts.B2 and B3 basic tax receipts produced by the contesting respondent would show that he was paying basic tax for the tenanted property as required under Section 72S of the Act. As per Section 72S of the Act the cultivating tenant is bound to pay basic tax to the holding in his possession. Exts.B4, B5, B7 and B15 building tax receipts also fortify the case of the contesting respondent that he is in possession of the land and the building thereon. Documents produced by the contesting respondent show the continuous payment of basic tax upto 1992. The Appellate Authority correctly found that there is no document produced by the petitioners to find that they were in possession of the property after 1958. Conversely, the documents produced by the contesting respondent would clearly show that after 1958, the property was in the possession of the respondents and the petitioners have no possession thereafter. I find no illegality or irregularity in the impugned order. There is no merit in this revision. Hence it is dismissed.

All pending interlocutory applications will stand dismissed.

A. HARIPRASAD, JUDGE.

cks