

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. 639 of 2009 ()

AA 175/2000 of APPELLATE AUTHORITY (LR), ALAPPUZHA.
I.A.17/99 IN O.A. 176/98 OF LAND TRIBUNAL, ERNAKULAM,
POONITHUIRA.

O.A. NO. 176/98 OF LAND TRIBUNAL, ERNAKULAM, POONITHURA.

REVISION PETITIONER(S)/APPELLANT/RESPONDENT:

VILASINI, W/O.LATE AYYAPPAN,
KANDASSERRY PARAMBIL HOUSE,
(THUNDIPARAMBIL HOUSE),
WARD NO.10, CHERAI P.O., PALLIPPURAM VILLAGE,
KOCHI TALUK, ERNAKULAM DISTRICT.

BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P

RESPONDENT(S)/RESPONDENT/APPLICANT &
RESPONDENT/NON-PARTY/NON-PARTY:

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1. VASANTHI,
W/O.LATE KALADHARAN, PALLATHUPARAMBIL, CHERAI,
PALLIPPURAM VILLAGE, KOCHI TALUK,
ERNAKULAM DISTRICT.
 2. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

R1 BY ADV. SRI.VARGHESE C.KURIAKOSE
R1 BY ADV. SRI.B.S.SURESH KUMAR
R2 BY ADV. SMT. LILLY LESLIE

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. 639 of 2009
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Dated this the 29th day of May, 2015.

ORDER

Under challenge is the order dated 8.10.2009 in A.A. No. 175 of 2000 of Appellate Authority (Land Reforms), Alappuzha whereby the Appellate Authority dismissed the appeal confirming the order of the Land Tribunal.

2. One Kandappi had four daughters and two sons. All daughters are given in marriage and the sons took up separate residence. The petitioner is the daughter of Kandappi, who died in 1965. With the advent of the Kerala Land Reforms Act, the petitioner claimed that she is entitled to kudikidappu and she filed O.A. 11742 of 1970 before the Land Tribunal, Vypeen in which purchase certificate was issued to her. That was challenged by one Gangadharan In LRAS No. 551 of 1971 contending that out of the total 13 cents, 8 cents was claimed by him and only 5 cents could be given

as kudikidappu to the petitioner. That appeal was dismissed by finding that claimant was entitled to only 7 cents and 6 cents devolved on the revision petitioner. Even after such a finding was entered into by the appellate authority concerned, Gangadharan initiated further proceedings in the matter and filed O.A. 521 of 1976 for purchase certificate. In the said proceedings also, the petitioner was the second respondent. In that O.A. it was found that Gangadharan was entitled to get purchase certificate in respect of 7 cents. Even though LRAS. 294 of 1979 was filed against the order of the Land Tribunal, by judgment dated 27.4.1985 appeal was dismissed for non-prosecution. The net result was that the revision petitioner got purchase certificate in respect of 6 cents comprised in Sy. No. 501/1,7 and Sy. No. 1029/2 of Pallippuram Village.

3. While things stood thus, the first respondent herein raised a contention with respect

to property in relation to which purchase certificate was issued to the petitioner by filing O.A. 560 of 1986 before the Land Tribunal, Vypeen. It is contended that her husband, late Kaladharan had filed O.A. 4185 of 1970 in respect of the same property, but it happened to be dismissed for default. After hearing both sides, and taking necessary evidence, the O.A. was dismissed. Against the order in O.A., LRAS 22 of 1989 was filed before the appellate authority and by judgment dated 6.12.1991, the appellate authority set aside the order in O.A. 11742 of 1970 and the case was remanded for fresh disposal in accordance with law. The order by which the petitioner obtained purchase certificate was also set aside.

4. The petitioner bonafide believed that she would get notice from the Appellate Authority. While she was awaiting notice from the Appellate Authority, she got a notice from the Revenue Inspector saying that they would be measuring the

property on 10.3.1999. On making enquiries, she came to know that O.A. 560 of 1986 before the Land Tribunal was transferred to the Land Tribunal, Poonithura and it was renumbered as O.A. 176 of 1998 and the same has been disposed of by order dated 11.2.1999. The petitioner had no knowledge about the service of notice nor she was informed about the case.

5. In the light of the said fact, she filed I.A. 17 of 1999 seeking to review the order of the Land Tribunal. She sought an opportunity to present her case and also to adduce evidence. The review petition was dismissed by the Land Tribunal. In the meanwhile, the order passed in O.A. was also challenged and the said appeal was also dismissed. The result is that the petitioner is deprived of an opportunity to produce necessary evidence in support of her case and she has been thrown out of the property in respect of which she was at one point of time granted purchase certificate.

6. Against the order dismissing the review petition, A.A. 175 of 2000 was filed and the Appellate Authority by a cryptic order dismissed the appeal.

7. Learned counsel appearing for the petitioner contended that both before the Land Tribunal and before the Appellate Authority, the petitioner did not have full opportunity to adduce evidence and present his case nor those authorities bother to consider the case put forward by the petitioner. Learned counsel for the petitioner points out that it may be remembered that at one point of time the petitioner was granted purchase certificate by virtue of the order of the Land Tribunal which was later cancelled by the appellate authority. Having deprived of an opportunity to present his case, learned counsel pointed out that the order cannot be sustained. There is no reason given as to why the appeal is dismissed.

8. Learned counsel appearing for the respondents on the other hand submitted that the matter has received attention from both the authorities and there is no question of reconsideration.

9. After having heard counsel on both sides, it is felt that the findings of the authorities are totally unsatisfactory. The appellate authority has not considered the evidence and has simply observed that since the matter has to be remanded to the Land Tribunal, it need not take the trouble to go through the documents as it feels that everything done by the Land Tribunal is proper and correct. This attitude of the Appellate Authority cannot be supported. The Appellate Authority has to independently consider the issue and it cannot simply ward off its duty and held that all the matters were elaborately considered by the Land Tribunal. As rightly pointed out by the learned counsel for the revision petitioner, the

order of the appellate authority is cryptic and does not contain reasons.

10. Learned counsel for the respondents also pointed out that if this Court feels that a reconsideration of the matter is necessary, the said authority may be directed to dispose of the matter within a time limit.

11. Learned counsel for the petitioner then contended that it may be necessary to adduce evidence and produce documents before the Appellate Authority and she may be given an opportunity to do so.

In the result, this Civil Revision Petition is allowed, the order dated 8.10.2009 in A.A. 175 of 2000 is set aside and the matter is remanded to the Appellate Authority (Land Reforms) for fresh consideration in accordance with law and in the light of what has been stated above. Parties will be at liberty to adduce evidence before the Appellate Authority. Parties shall

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appear before the Appellate Authority on 24.6.2015.
The Appellate Authority may make every endeavour to
dispose of the matter within six months thereof.

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P. BHAVADASAN,
JUDGE