

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

CRP.No.195 of 2010

AGAINST THE ORDER IN CC 1117/1973 of TALUK LAND BOARD, OTTAPALAM
DATED 07.03.2008

PETITIONERS:

1. RADHAKRISHNAN
S/O.LATE VADKKUMBURATH RAMAN, AKALOOR,
OTTAPALAM TALUK
PALAKKAD DISTRICT.
2. RAMACHANDRAN,
S/O.LATE VADKKUMBURATH RAMAN, AKALOOR,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.P.JAYARAM

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
SECRETARY, DEPARTMENT OF REVENUE,
THIRUVANANTHAPURAM.
2. THE TAHSILDAR, OTTAPALAM TALUK,
P.O.OTTAPALAM, PALAKKAD DISTRICT.
3. THE VILLAGE OFFICER,
LAKKIDI PERUR VILLAGE II, P.O.AKALOOR
OTTAPALAM TALUK.
4. SURESH KUMAR, S/O.VADAKKUMBURATH RAMAN,
P.O.AKALOOR, OTTAPALAM TALUK, PALAKKAD DISTRICT.

R4 BY ADV. SRI.G.SREEKUMAR (CHELUR)

R4 BY ADV. SRI.K.RAVI (PARIYARATH)

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
15-06-2015, ALONG WITH CRP(LR). 590/2014, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

**Civil Revision Petition No.195 OF 2010 &
Civil Revision Petition (LR) No.590 OF 2014**

Dated this the 15th day of June, 2015.

O R D E R

These two revision petitions arise out of same proceedings in which the declarant was initially found to possess, as per order dated 30.05.2004, excess land having an extent of 13.94 Acres and he was directed to surrender the same. The declarant filed an option statement.

2. It may be noticed here that in the order dated 30.05.2004, Taluk Land Board while verifying the various claims and rights put forward by the respective parties had found that, according to the report submitted by the authorised officer, 14.29 Acres were never in possession of the declarant. However, Taluk Land Board declined to accept the same holding that there is no document to show that the declarant had never possessed the 14.29 Acres. It was found that after deducting the extent of land which the declarant is entitled to hold, he is liable to surrender

13.94 Acres of land. It was also observed that in case the persons who are found to be in possession of 14.29 Acres preferred claims under the Land Reforms Act, those claims have to be dealt with in accordance with law. Subsequently, it appears that several persons raised claims regarding the property which was not found to be in possession of the declarant as per the report of the authorised officer and after consideration of the claims, an order was passed on 07.03.2008 which is under challenge in C.R.P.No.195/2010. In C.R.P.No.590/2014, the original order dated 30.05.2004 is under challenge.

3. It may be noticed that by the subsequent order dated 07.03.2008, it was found that out of the 14.29 Acres of land which was stated to be not in possession of the declarant, claim with respect to 10.60 Acres of land was accepted and that extent of land was deleted from the account of the declarant. It was held that the declarant is liable to surrender 3.34 Acres as excess land. It was further observed that 2.32 Acres of land had already been taken possession as excess land and balance 1.02 Acres has to be taken from survey Nos.38/17A, 17B, 16p (OD).

4. Challenging the order dated 30.05.2004, learned counsel appearing for the revision petitioners pointed out that once a report has been received from an authorised officer pointing out that the declarant is not in possession of the property mentioned therein, it is not within the power of the Taluk Land Board to hold that the declarant is liable to surrender the said property. According to the learned counsel, 14.29 Acres ought to have been excluded from the lands in possession of the declarant.

5. The Taluk Land Board has observed that even though the authorised officer's report states that in respect of 14.29 Acres described in various survey numbers, declarant does not appear to have been in possession, there is want of materials to show the same. Consequently, the declarant was directed to surrender 13.94 Acres. An option statement was filed by the declarant subsequently. It was also directed in the order dated 30.05.2004 to take over the properties regarding which option has been furnished by the declarant. As already stated, in the earlier order dated 30.05.2004 it was specifically mentioned that if the persons who are found to be in possession of 14.29 Acres

prefer claims in respect of their properties, that claims have to be considered in accordance with law. That is what has been precisely done while passing the order dated 07.03.2008. Several persons preferred claims before the Taluk Land Board stating their independent right over the property and pointed out that the declarant had never been in possession of the property. After the claims received from various persons, claims in respect of 46 cents in survey No.37/11 and 68 cents in survey Nos.89/5, 4A, 4B, 172/3 were not granted. Necessarily in the light of the fact that those claims have not been accepted by the Taluk Land Board, it has been taken as if it belongs to the declarant. Ultimately in the order dated 07.03.2008 it was found that after giving allowance to the extent of property covered by various claims, declarant was liable to surrender 3.34 Acres of land.

6. The apprehension expressed by the learned counsel for the petitioners in C.R.P.No.195/2010 is that in case the persons whose claims have been rejected, approach the Taluk Land Board under Section 7E of the Kerala Land Reforms Act and succeed, that may prejudicially affect the declarant who would have

already surrendered the property. Therefore, the claims in respect of Section 7E of the Land Reforms Act may be directed to be considered.

7. Two claimants who suffered the order have not come up before this Court. Of course, that does not mean that they have no grievance. All this Court can now do is to reserve the right of the declarant to have the property excluded from his account in case the claims in respect of 46 cents and 68 cents are upheld by the Taluk Land Board on the basis of appropriate applications filed by the respective persons in possession of the property be it under Section 7E or under any provisions of the Land Reforms Act in accordance with law. As long as those claims are not accepted, those extent of land had to be treated as if in the possession of the declarant.

These petitions are disposed of with a direction that in case the two claims namely, claims relating to 46 cents comprised in survey No.37/11 and 68 cents in survey Nos.89/5, 4A, 4B, 172/3 are accepted by the Taluk Land Board on any ground be it under Section 7E or otherwise, those extent will be excluded from the

declarant. As far as the persons who are liable to surrender 1.02 Acres are concerned, they will be given a right to submit fresh option of lands they wish to surrender.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

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P.A. to Judge.