

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

CRP No. 103 of 2011 ()

**AGAINST THE ORDER IN AA 191/2000 of APPELLATE AUTHORITY (LR), ALAPPUZHA
DATED 28-01-2011.**

AGAINST THE ORDER IN SM 73/1980 of LAND TRIBUNAL, ALAPPUZHA.

REVISION PETITIONER(S)/APPELLANT:

**ASUMA BEEVI, VELIMPARAMBIL,
THONDANKULANGARA, THEKKAYARYADU, ALAPPUZHA.**

BY ADV. SRI.D.ANIL KUMAR.

RESPONDENT(S):

- 1. T.K.SREEDHARAN,(RESPONDENT/APPLICANT),
VELIMPARAMBIL,THONADANKULANGARA,
THEKKANARYADU, ALAPPUZHA - 688 010.**
- 2. VARGHESE THOMAS, (RESPONDENT/RESPONDENT)
THONIPURACKAL, AVALOOKKUNNU.P.O, ALAPPUZHA - 688 006.**
- 3. S.N.D.P.SAKHA YOGAM NO.293,ALAPPUZHA,
THONDANKULANGARA, P.O THONDANKULANGARA,
REPRESENTED BY ITS PRESIDENT - 688 010.**
- 4. STATE OF KERALA,REPRESENTED BY
CHIEF SECRETARY, THIRUVANANTHAPURAM - 695 001.**

**BY ADV.SRI.V.RAJENDRAN.
R4 BY GOVERNMENT PLEADER SRI.P.K.ABDUL REHMAN.**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
04-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

amk

A.HARIPRASAD, J.

C.R.P No.103 of 2011

Dated this the 04th day of March, 2015.

ORDER

This revision petition is filed challenging the order passed by the Appellate Authority (LR) constituted under the Kerala Land Reforms Act, 1963. The grievance of the petitioner is that the Land Tribunal, Alappuzha as per order in S.M No.73/80 allowed a purchase of land in the name of the first respondent herein without any legal basis. It is further submitted that the property in dispute is part and parcel of a land owned and possessed by the revision petitioner and the first respondent has no manner of legal right to claim a purchase.

2. Heard the learned counsel for the petitioner and learned Government Pleader.

3. Even though respondents 2 and 3 were impleaded in this proceedings and they were duly served, there was no representation for them.

3. Learned counsel for the petitioner submitted that the

order passed by the Land Tribunal which was confirmed by the Appellate Authority is incorrect and illegal. According to him, the first respondent has not produced any document to show that he is entitled to get a purchase of 0.5 cents of land included in the dispute. The petitioner would contend that the property in dispute is a portion of a larger property obtained by her mother in the year 1113 M.E as per document No.555 of S.R.O Alappuzha. The corresponding Christian Era will be 1938. Thereafter, a portion of the property was gifted by petitioner's mother Safiya Umma in favour of the petitioner and her brother as per document No.2464 of 1960 S.R.O Alappuzha. According to the contentions of the petitioner the disputed 0.5 cents, now included in the assignment in favour of the first respondent, is a part and parcel of item No.2 of the property shown in document No.2464 of 1960.

4. Learned Government Pleader submitted that the

petitioner did not produce any document either before the Appellate Authority or before the Land Tribunal to substantiate her case. In answer to that argument, learned counsel for the petitioner submitted that in the Land Tribunal the petitioner was not made a party and no notice was served on her. After knowing about the order passed by the Land Tribunal, the petitioner approached the Appellate Authority for ventilating her grievance. That was wrongfully turned down is the grievance of the petitioner. Learned counsel further submitted that after obtaining purchase in the name of the first respondent, he assigned the property as per a document dated 21-02-1989 in favour of the third respondent. If the first respondent has no tenancy right over the disputed property, the assignment in favour of the third respondent also will have no legal effect. It is also submitted on behalf of the petitioner that the second respondent, who was shown as the land owner by the first

respondent in the Land Tribunal Proceedings, has no manner of right over the property. The fact of the matter is that the Appellate Authority in its order has mentioned that the entire records have been irrecoverably lost. However, for arriving at a proper decision, reconstruction of records may be necessary. The order passed by the Appellate Authority shows that there was no proper consideration of the claims put forward by the petitioner in the correct perspective. Therefore, I am of the view that the matter requires a fresh determination at the hands of the Appellate Authority and the parties should be afforded an opportunity to produce documents to substantiate their rival claims. Therefore, the matter is remitted back to the Appellate Authority with following directions.

In the result, the revision petition is allowed. The order passed by the Appellate Authority (LR) Alappuzha in A.A No.191 of 2000 dated 28th January, 2011 is set aside. The matter

is remitted back to the Appellate Authority for determination as to whether the first respondent has established his tenancy in respect of 0.5 cents of land included in the dispute. The petitioner is also at liberty to show that the first respondent has no tenancy right over the property by substantiating her claim over the property.

Parties shall appear before the concerned Appellate Authority on 6th April, 2015.

Registry shall transmit the records to the concerned Appellate Authority in the meantime.

The Appellate Authority shall consider the rival claims within a period of six months from the date of appearance and dispose of the matter completely within that time.

All pending interlocutory applications will stand dismissed.

Sd/-
A.HARIPRASAD,
JUDGE.