

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

OP.No. 9220 of 1996 (V)

PETITIONER(S):

1. **ABDUL JABBAR RAWTHER
S/O.ABDUL HAQUE,
NANDAMKIZHAYA HOUSE,
MUTHALAMADA, CHITTUR,
PALGHAT DISTRICT.**

***SUPPLEMENTAL PETITIONERS 2 TO 7 IMPEADED**

2. **Addl. 2. J.SUBEETHA
W/O.ABDUL JABBAR.**
3. **Addl. 3. J.KADHER MEERA
S/O.ABDUL JABBAR.**
4. **Addl. 4. J.SHAIK MUSTHAFA
S/O.ABDUL JABBAR.**
5. **Addl. 5. J.BASHEER
S/O.ABDUL JABBAR.**
6. **Addl. 6. J.ABDUL HACK
S/O.ABDUL JABBAR.**
7. **Addl. 7. J.SHAJAHAN
S/O.ABDUL JABBAR.**

**PETITIONERS RESIDING AT NANDAMKIZHAYA HOUSE
MUTHALAMADA, CHITTUR, PALGHAT DISTRICT.**

**PETITIONERS 2 TO 7 ARE IMPEADED AS PER ORDER DATED
06.12.2006 IN IA 16856/2006.**

**BY ADVS.SRI.T.C.MOHANDAS
SMT.S.CHITHRA
SRI.A.R.GANGADAS**

RESPONDENT(S):

1. STATE LAND BOARD
TRIVANDRUM
2. TAHSILDAR, CHITTUR TALUK,
CHITTUR, PALGHAT DISTRICT.

R1 BY ADV. GOVERNMENT PLEADER SMT.MADHUBEN M.

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Imp

O.P.No. 9220 of 1996 (V)

APPENDIX

PETITIONER(S) EXHIBITS

EXT.P.1	TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 14.08.1989
EXT.P.2	TRUE COPY OF THE ORDER IN C.R.P.NO.1856 OF 1989 DATED 31.05.1990.
EXT.P.3	TRUE COPY OF OPTION STATEMENT FILED BY THE PETITIONER DATED 30.07.1990.
EXT.P.4	TRUE COPY OF NOTICE DATED 6.07.1995 ISSUED BY THE SECOND RESPONDENT.
EXT.P.5	TRUE COPY OF JUDGMENT IN O.P. NO.12262 OF 1995 DATED 19.08.1995.

RESPONDENT(S) EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

Imp

P.D.RAJAN, J.

O.P. No.9220 of 1996

Dated this the 31st day of March, 2015

JUDGMENT

This original petition is filed under Article 226 of the Constitution of India seeking following directions 1 to 3.

i) issue a writ of mandamus any other appropriate writ order or directions commanding the 1st respondent to pass the revised order as directed by Exhibit P2 judgment after giving the petitioner an opportunity of being heard and serve the order as contemplated by section 86 of the Kerala Land Reforms Act on the petitioner;

ii) issue a writ of mandamus directing 1st respondent to consider the petitioner's plea regarding the correction of the mistake in the option statement;

iii) issue a writ of mandamus commanding the respondents not to take steps for taking possession of the petitioner's land until a revised order is passed in pursuance to Exhibit P2.

2. The petitioner is a declarant in land reforms

seeking proceedings pending before the first respondent who passed orders determining ceiling area of the petitioner's family. There was a total extent of 41.01.250 acres and ceiling area applicable to the petitioner's family is 20 acres. Remaining 19.45 acres is liable to be surrendered to the first respondent. As per Exhibit P1 direction, petitioner approached this Court with CRP No.1856/89 and Exhibit P2 order was passed by this Court. In pursuance to Exhibit P2, the first respondent had to take a fresh enquiry to identify the land in possession of the petitioner. Subsequently, the petitioner approached the first respondent with Exhibit P3, in which a clerical mistake occurred. After noticing this defect, the petitioner approached the first respondent for rectifying the defect. There was no action from their side. Moreover, after issuing Exhibit P3 direction, no enquiry as directed by this Court, was conducted by the first respondent. While so, the actual owner in possession of the land died. In the meantime, second respondent issued Exhibit P4, against that petitioners

obtained Exhibit P5 direction. As there was no progress from the part of the first respondent, petitioner approached with this original petition.

3. In the counter filed by the respondents, it is contended that as per the direction in Exhibit P2, the option statement filed by the petitioner before the Land Board was forwarded to the Tahsildar, Chittur vide letter dated 20.08.1990 and the Tahsildar was directed to decide the acceptability and the availability of land offered by the declarant. Accordingly, Village Officer, Muthalamada was directed to report the extent of available land. There was no reply from the side of the petitioner and no documents were produced by him for verification before the Head Quarters, Deputy Tahsildar, Chittur. Since no documents were produced as per direction in Exhibit P2 and again the order of the High Court dated 19.08.1995 i.e. Exhibit P5. The Revenue Inspector, Kollengode has taken possession of land and the possession records were submitted before the State Land Board. In the meantime, the petitioner approached

the High Court and obtained Exhibit P5 and did not comply with the directions issued by the Revenue Inspector, Kollengode as directed by State Land Board.

4. It is true that the petitioner is the declarant and P1 direction was issued by the Land Board. As per Exhibit P2, this court directed the first respondent to give option to select land retained by the declarant from the ceiling area. Such recondition shall be allowed only at the option of the petitioner. It is also directed that the petitioner has given possession of land to strangers. Such transfer shall be subject to the extent of the area in possession of the petitioner. Petitioner submitted that, after Exhibit P2, P1 order was merged with P2. The first respondent has not taken any steps for posting the case. No earnest efforts were made by the first respondent for complying the direction. He also admitted that there is a minor mistake in analysing and mentioning the actual area surrendered, instead of 19.45 acres mistakenly noted as 19.98, i.e. to be rectified. However, considering the rival contentions put forward by both counsel, the

primary responsibility of the first respondent is to comply with the direction issued by this Court as per in Exhibit P2. For that, the first respondent has to fix a date for hearing the petitioner and issue a notice to the legal heirs of the original declarant and dispose the matter within six months from the date of receipt of a copy of this judgment.

Sd/-
P.D.RAJAN, JUDGE

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/TRUE COPY/

PA TO JUDGE