

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

CRP(LR).No. 104 of 2014 (E)

AGAINST THE JUDGMENT IN AA 47/2010 OF THE APPELLATE AUTHORITY (LR),
KANNUR DATED 5.11.2013

AGAINST THE ORDER IN SMC 978/2008 OF THE LAND TRIBUNAL, KOZHIKODE
DATED 18.12.2009.

REVISION PETITIONER/APPELLANT/3RD PARTY:

T.K. KRISHNAN NAIR, AGED 65 YEARS
S/O. KALLYANI AMMA, RESIDING AT PULIKAVIL HOUSE
POST PILASSERY, KUNNAMANGALAM AMSOM DESOM
KOZHIKODE TALUK.

BY ADVS. SRI.V.V. SURENDRAN
SRI.P.A. HARISH

RESPONDENTS/RESPONDENTS/A PARTY & STATE:

1. E. LAKSHMI AMMA
W/O. MADHAVAN NAIR, EDAKANDY HOUSE, POST PILASSERY
KUNNAMANGALAM AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE - 673 571
2. P. SANKARAN NAIR
S/O. MADHAVAN NAIR, EDAKANDY HOUSE, POST PILASSERY
KUNNAMANGALAM AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE - 673 571
3. VELU NAIR
S/O. MADHAVAN NAIR, EDAKANDY HOUSE, POST PILASSERY
KUNNAMANGALAM AMSOM DESOM, KOZHIKODE TALUK 673 571.
4. KALLYANI @ MALU
D/O. MADHAVAN NAIR, EDAKANDY HOUSE, POST PILASSERY
KUNNAMANGALAM AMSOM DESOM, KOZHIKODE TALUK,
KOZHIKODE - 673 571.
5. CHEROOTTY @ SARADA
D/O. MADHAVAN NAIR, EDAKANDY HOUSE, POST PILASSERY
KUNNAMANGALAM AMSOM DESOM, KOZHIKODE TALUK
KOZHIKODE - 673 571
6. SULOCHANA
D/O. MADHAVAN NAIR, EDAKANDY HOUSE
POST PILASSERY, KUNNAMANGALAM AMSOM DESOM
KOZHIKODE TALUK, KOZHIKODE - 673 571

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7. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM 695 001.

R1 TO R6 BY ADV. SRI.P.V.KUNHIKRISHNAN
R7 BY GOVERNMENT PLEADER SRI.RINNY STEPHEN CHAMAPARAMBIL

THIS CRP (LAND REFORMS ACT) HAVING BEEN FINALLY HEARD ON
23-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J.

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Dated this the 23rd day of March, 2015

ORDER

SMC.No.978 of 2008 was initiated before the Land Tribunal, Kozhikode at the instance of respondents 1 to 6, for the assignment of an extent of 43.50 cents of land in R.S.No.186/1 of Kunnamangalam Village, Kozhikode Taluk. In the order of the Land Tribunal, the landlords were shown as Thevarakandiyil Raman Nair and Kallyani Amma. The Land Tribunal allowed the S.M.Proceedings as per order dated 18.12.2009.

2. The revision petitioner, who was not a party before the Land Tribunal, filed A.A.No.47 of 2010 before the Appellate Authority (LR), Kannur, challenging the order of the Land Tribunal. It was contended by the appellant before the Appellate Authority that the landlords shown in the order of the Land Tribunal were not alive and, therefore, the landlords' family was not represented before the Land Tribunal. According to the revision petitioner/appellant, the property

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belonged to Thevarakandiyil tarwad. The case put forward by the tenants is that one Gopi Nair of Purathanari tarwad obtained the land on oral lease in 1943 and Gopi Nair entrusted the property in 1948 to Purathanari Madhavan Nair, the predecessor-in-interest of the tenants.

3. In the nature of the disputes involved, the land reforms authorities have to consider the question whether there was an entrustment of the property to Gopi Nair and Madhavan Nair as alleged or whether the landlords' family continued to be in possession of the property. This question has to be decided on the basis of documentary and oral evidence. The appellant before the Appellate Authority was not a party to the proceedings before the Land Tribunal. In fact, the landlords shown in the proceedings before the Land Tribunal had died long ago and there was nobody to represent the landlords' family. Therefore, there was no adjudication of the disputes by the Land Tribunal. The Land Tribunal issued the order in a printed form. The Appellate Authority was expected to consider the question. But, after narrating the contentions of the parties in brief, the Appellate Authority simply dismissed the appeal

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without showing any reason. It was also held that no irregularities are seen in the lower court proceedings. On a mere perusal of the judgment of the Appellate Authority, it is clear that the Appellate Authority did not consider the question involved in the case. There was nobody to contest the case before the Land Tribunal. In these circumstances, the Appellate Authority should have set aside the order of the Land Tribunal and remand the case to the Land Tribunal for deciding the case afresh.

4. In the interests of justice, both parties should be afforded an opportunity to contest the matter in a meaningful manner. Both parties should have an opportunity to adduce evidence before the Land Tribunal. The Land Tribunal shall decide the question afresh.

Accordingly, the Civil Revision Petition is allowed, the judgment of the Appellate Authority as well as the order of the Land Tribunal are set aside and the matter is remanded to the Land Tribunal for fresh disposal in accordance with law. I make it clear that I have not considered on the merits the rival contentions of the parties and the disputes involved in the case and the same has to be

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considered and decided by the Land Tribunal on the basis of the evidence to be adduced by the parties. The documents produced before the Appellate Authority by the parties shall be forwarded to the Land Tribunal. The Land Tribunal shall dispose of the case as expeditiously as possible.

(K.T.SANKARAN)
Judge

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