

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

CRP(LR).No. 110 of 2014 ()

AA 92/2009 BEFORE THE APPELLATE AUTHORITY (LR) TRISSUR

PETITIONER/IST APPELLANT :

METHUVIL SAIDALAVI HAJI,
S/O. MOHAMMED, METHUVIL HOUSE,
THIRURANGADI AMSOM VENNIYUR DESOM,
VENNIYUR P.O - 673 508, THIRURANGADI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.JAMSHEED HAFIZ

RESPONDENTS/RESPONDENTS :

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1. THE STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNING SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
 2. ABDUL KHADER
S/O. MALIYEKKAL PATHUMMU.
 3. SUBAIR
S/O. MALIYEKKAL PATHUMMU.
 4. MOOSAKOYA
S/O. MALIYEKKAL PATHUMMU.
 5. ALI
S/O. MALIYEKKAL PATHUMMU.
 6. RUKKIYA
W/O. RAYEE, KODATTIL HOUSE, KAKKAD P.O.
THIRURANGADI TALUK, MALAPPURAM DISTRICT - 676 306.
 7. JAFFAR
S/O. MALIYEKKAL PATHUMMU.
 8. MUNEER
S/O. MALIYEKKAL PATHUMMU.

9. KARPATTU KRISHNAKUMAR
S/O. PARUKUTTY @ CHINNU AMMA, KAPRAT HOUSE,
THIRURANGADI AMSOM, VENNIYUR DESOM,
VENNIYUR P.O - 676 508, THIRURANGADI TALUK,
MALAPPURAM DISTRICT.

10. VIJAYA BABU
S/O. PARUKUTTY @ CHINNU AMMA, KAPRAT HOUSE,
THIRURANGADI AMSOM, VENNIYUR DESOM,
VENNIYUR P.O - 676 508, THIRURANGADI TALUK,
MALAPPURAM DISTRICT.

RESPONDENTS 2 TO 5 AND 7 AND 8 MALIYEKAL HOUSE ,
THIRURANGADI AMSOM, VENNIYUR DESOM,
VENNIYUR P.O - 676 508, THIRURANGADI TALUK,
MALAPPURAM DISTRICT

R1 BY GOVERNMENT PLEADERS SRI.L.ALOYSIUS THOMAS
R3 TO R5 BY ADV. SRI.K.RAMACHANDRAN
BY ADV. SMT.M.C.BINDUMOL
R10 BY ADVS. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

THIS CRP (LAND REFORMS ACT) HAVING BEEN FINALLY HEARD
ON 07-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

bp

B. KEMAL PASHA, J.

.....
C.R.P.(LR) No.110 of 2014
.....

Dated this the 7th day of July, 2015

ORDER

Petitioner is challenging order dated 10.12.2013 passed by the Appellate Authority(LR), Thrissur in I.A.No.139/2009 in A.A. 92/2009. It seems that the petitioner, as appellant, has filed the appeal before the Appellate Authority(LR) along with the aforesaid IA for getting the delay in filing the appeal condoned. It further seems that the Appellate Authority has taken the view that the petitioner was aware of the proceedings of the Land Tribunal in the year 2008 itself and that the claim of the petitioner that he came to know about the proceedings before the Land Tribunal only in the year 2009 was not correct. It is seen that in the said IA the petitioner had specifically contended that he came to know about the purchase certificate on

28.11.2009 only. According to the Appellate Authority, from the written statement filed by the petitioner in OS 214/2008 in the year 2008 it is evident that he was aware of the purchase certificate in 2008 itself. It is based on those aspects, the Appellate Authority has dismissed the IA.

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

3. The learned counsel for the respondents has invited the attention of this Court to the decision in ***Baswaraj and another v. Special Land Acquisition Officer*[(2013) 14 SCC 81]** wherein it was held that there is distinction between sufficient cause and good cause, and that a party who has acted negligently, or without *bonafides*, it couldnot be treated as sufficient cause for getting the delay condoned. Relying on the decision noted *supra*, the learned counsel for the respondents has canvassed an argument that the petitioner has not shown the correct date

on which he came to know about the purchase certificate and not only that, he had averred falsehood before the Appellate Authority for getting the delay condoned by stating that he came to know about the purchase certificate only on 28.11.2009. The learned counsel has invited the attention of this Court to the reply dated 25.11.2009 issued to the petitioner from the Office of the Special Tahsildar(LR), Tirur. As per the reply it seems that the petitioner had sought for a copy of the SM proceedings No.746/2006 in this case and that the copies of the said documents were not made available to the petitioner by stating that those documents were not available in the file then. According to the petitioner, he again applied and it was only then, he could get the copies on 03.12.2009. According to the petitioner, the averment made in the IA that he came to know about the purchase certificate only on 28.11.2009 was a mistake and in fact he came to know about the purchase certificate from OS 214/2008, and immediately thereafter he had taken

steps to get the copies of the documents relating to the said file. The learned counsel for the petitioner has pointed out the Appellate Authority has not afforded an opportunity to the petitioner to adduce any evidence relating to the matter for getting the delay condoned and instead of that the Appellate Authority has directly passed the impugned order.

4. On hearing either side and on a perusal of the records, this Court is of the view that the Appellate Authority ought to have extended an opportunity to the petitioner to prove his claim for getting the delay condoned and therefore, the impugned order is liable to be set aside.

In the result, this Civil Revision Petition is allowed and the impugned order is set aside. I.A.No.139/2009 is restored and the Appellate Authority shall dispose of the said IA by giving an opportunity to both sides to adduce evidence, if any.

Sd/- **B. KEMAL PASHA, JUDGE.**

ul/-

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P.S. to Judge.