

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

OP(C).No. 2509 of 2013 (O)

OS. NO.194/2013 OF MUNSIFF COURT, OTTAPPALAM

.....

PETITIONER(S):

**HYRUNNEESA, W/O.P.P. HAMSA, 38 YEARS,
PUTHANPEEDIKAKKAL, POST MANNENGODE,
OTTAPALAM TALUK, PIN-679 307.**

BY ADV. SRI.R.SREEHARI.

RESPONDENT(S):

**MOIDEEN, S/O.KUNHALANKUTTY HAJI,
PUTHANPEEDIKAKKAL, NALLAYA AMSOM,
EZHUVATHALA DESOM AND POST 679 335,
OTTAPALAM TALUK.**

BY ADV. SRI.P.JAYARAM.

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

OP(C).No. 2509 of 2013 (O)

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. COPY OF THE ASSIGNMENT DEED NO.6166/2012 OF SRO,
CHERPULASSERY.
- EXHIBIT P2. COPY OF BASIC TAX RECEIPT ISSUED BY THE VILLAGE OFFICE,
KULUKKALLUR.
- EXHIBIT P3. COPY OF THE PETITION DATED 15/01/2013 FOR PURCHASE
CERTIFICATE.
- EXHIBIT P4. COPY OF THE REPORT OF THE VILLAGE OFFICER,
KULUKKALLUR.
- EXHIBIT P5. COPY OF THE NOTICE OF THE HEARING ISSUED BY
LAND TRIBUNAL, OTTAPALAM.
- EXHIBIT P6. COPY OF THE PETITION DATED 14.06.2013 FILED BY THE
RESPONDENT BEFORE THE LAND TRIBUNAL, OTTAPALAM.
- EXHIBIT P7. COPY OF PLAINT IN OS NO.194/2013 OF MUNSIFFS COURT,
OTTAPALAM, FILED BY THE RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P. BHAVADASAN, J.

O.P.(C). No. 2509 of 2013

Dated this the 21st day of January, 2015.

JUDGMENT

In this Original Petition under Article 227 of the Constitution of India, the limited prayer made at the time of hearing of this petition is that there may be a direction to the Land Tribunal, Ottapalam to consider the purchase application said to have been filed by the petitioner seeking assignment of right, title and interest over the property scheduled to the application.

2. The petitioner claims to be the absolute owner in possession and enjoyment of 1.93 Hectars of land comprised in Sy. No. 525/1 of Kulukkallur Village, Ottapalam Taluk. She claims right to the suit property by virtue of assignment deed No. 6166/2012. Various averments are made by the petitioner which are not relevant for the present purpose. Suffice to say that the

petitioner claims to have filed application for purchase certificate before Land Tribunal, Ottapalam. According to the petitioner, the authorised officer's report has been received by the Land Tribunal. Notice has been issued under Section 72F(2) of the Kerala Land Reforms Act. While things stood so, the petitioner would point out that the respondent herein filed a petition before the Land Tribunal pointing out that a suit is pending in respect of the property and hence purchase certificate may not be issued to the petitioner. In the light of the said fact, the matter is kept pending by the Land Tribunal.

3. At the time of hearing of this petition, learned counsel appearing for the petitioner points out that the suit referred to by the respondent before the Land Tribunal is a partition suit filed as O.S. 194 of 2013 before the Munsiff's Court, Ottapalam. The said suit stands dismissed for default. Apart from the above fact, according to the learned counsel, there can be no embargo or prohibition against the

Land Tribunal in disposing of the matter on merits considering the report and other materials placed before the said authority.

4. Shri. Jayaram, learned counsel for the respondent on the other hand pointed out that O.S. 213 of 2013 was filed for declaration before Sub Court, Ottapalam in which issues have been framed.

5. Even though a suit said to have been filed by the petitioner is pending, there is nothing to show that issue of tenancy has been raised in the said suit for consideration and the matter has been referred to the Land Tribunal or in other words, there is nothing to show that there is pending reference from the civil court regarding the same issue.

6. Shri.Sreehari, learned counsel for the petitioner also pointed out that the respondent has also moved the Land Tribunal for the very same relief and it is prayed that all the parties be heard and a decision taken in the matter.

In the result, this Original Petition is allowed and the Land Tribunal, Ottapalam is directed to take up S.M. 238 of 2013 pending before the said authority and dispose of the same in accordance with law and after hearing the parties concerned as expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this judgment.

sb.

P. BHAVADASAN,
JUDGE