

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

OP(C).No. 95 of 2014 (O)

**I.A. 61/2013 AND I.A. 62/2013 IN A.A. 23/2003 OF APPELLATE AUTHORITY
(LAND REFORMS), THRISSUR**

PETITIONER :

**PUTHUPARAMBIL KUNHAMMU,
D/O.KUNHAN, MARUTHA P.O, NILAMBUR,
MALAPPURAM DISTRICT.**

BY ADV. SRI.M.KRISHNAKUMAR

RESPONDENTS :

- 1. MANNURKATTIL AMMUTTY,
W/O.LATE RAVUNNI, MANNURKATTIL HOUSE, MARUTHA P.O.
NILAMBUR, MALAPPURAM DISTRICT.**
- 2. SULOCHANA RAMAKRISHNAN
D/O.LATE RAVUNNI, CHEMBAMKUNNATH, MARUTHA,
CHAKKAPPADAM, EDAKKARA, NILABAU TALUK,
MALAPPURAM DISTRICT.**
- 3. DEVAYANI PRABHAKARAN,
D/O.LATE RAVUNNI, KALPARAMBIL, MUTTIKADAVU,
PALLIKUTH, CHUNGATHARA, MALAPPURAM DISTRICT.**
- 4. SHANTHA
D/O.LATE RAVUNNI, CHOLAKKADAN, MARUTHA
KEETTUNGAL, EDAKKARA, NILAMBUR TALUK,
MALAPPURAM DISTRICT.**
- 5. PRAMEELA VELAYUDHAN,
D/O.LATE RAVUNNI, CHENAPARAMBAN, MANALI,
CHUNGATHARA, NILAMBUR TALUK, MALAPAPURAM DISTRICT**
- 6. KANCHANA CHANDRAN,
D/O.LATE RAVUNNI, ERANJIYIL, KOLAKAPPARA
BATHERI.**
- 7. SUNITHA DASAN,
D/O.LATE RAVUNNI, NADUVAKKAD, ELAYOOR, ERNAD TALUK.**

- 8. SUMITHA SATHEESAN
D/O.LATE RAVUNNI, KOTTAYIL, PULLIPADAM,
MAMPAD, NILAMBUR TALUK, MALAPPURAM DISTRICT.**
 - 9. SUJITHA DEVARAJ,
D/O.LATE RAVUNNI, ALANGADAN, BARBAR MUKKUM PARLI,
EDAKKARA, NILAMBUR TALUK, MALAPPURAM DISTRICT.**
 - 10. SUJESH RAVUNNI
S/O.LATE RAVUNNI, MANNURKATTIL, VENDAKKUM POTTI,
MARUTHA, NILAMBUR TALUK, MALAPPURAM DSTRIC.**
 - 11. THE RECEIVER
NILAMBUR KOVILAKAM, NILAMBUR.**
 - 12. THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- R1 TO R10 BY ADV. SRI.T.PRASAD
R12 BY GOVERNMENT PLEADER SRI. REJI JOSEPH**
- THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 14-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: A TRUE COPY OF THE PURCHASE CERTIFICATE DATED 17/7/1976.
- EXHIBIT P2: A TRUE COPY OF THE ORDER DATED 9./3/1976 IN OA 6134/1975 OF THE LAND TRIBUNAL, EDAKKARA.
- EXHIBIT P3: A TRUE COPY OF THE OBJECTIONS FILED BY THE PETITIONER.
- EXHIBIT P4: A TRUE COPY OF THE ORDER DATED 2/4/2003 IN SM 69/1997 OF THE LAND TRIBUNAL, MANJERI.
- EXHIBIT P5: A TRUE COPY OF THE MEMORANDUM OF APPEAL FILED IN THE APPELLATE AUTHORITY (LR), THRISSUR ON 2/7/2003.
- EXHIBIT P6: A TRUE COPY OF THE ORDER DATED 10/5/2012 OF THE APPELLATE AUTHORITY (LRT) THRISSUR.
- EXHIBIT P7: A TRUE COPY OF THE AFFIDAVIT AND APPLICATION IN IA NO.61/2013 IN AA 23/2003.
- EXHIBIT P8: A TRUE COPY OF THE AFFIDAVIT AND APPLICATION IN IA 62/2013 IN AA 23/2003.
- EXHIBIT P9: A TRUE COPY OF THE COMMON ORDER DATED 4/6/2013 IN IA 61/2013 AND IA 62/2013.
- EXHIBIT P10: A TRUE COPY OF THE LETTER DATED 26/8/2013 ISSUED TO THE DEPUTY COLLECTOR, APPELLATE AUTHORITY, LR, THRISSUR.
- EXHIBIT P11: A TRUE COPY OF THE LETTER DATED 5/10/2013 ISSUED THE SECRETARY, LAND BOARD, THRIUVANANTHAPURAM.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

B. KEMAL PASHA, J.

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O.P.(C) No.95 of 2014
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Dated this the 14th day of July, 2015

J U D G M E N T

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Learned Government Pleader takes notice for R12.
Service is complete.

2. Two purchase certificates were granted, one in favour of the petitioner and the other in favour of the respondents. According to the petitioner, the purchase certificate granted to the respondents overlaps the subject matter of the purchase certificate granted to the petitioner. Challenging the same, Ext.P5 appeal was preferred before the Appellate Authority (Land Reforms), Thrissur (Manjeri Camp) as A.A.23/2003. According to the petitioner, instead of calling the case at Manjeri Camp, the matter was taken up at Thrissur and, therefore, the appellant as well as the respondents could not appear. The fact that both the parties were not present, is evident from Ext.P6 order. On account

of the absence of the appellant and the respondents, the appeal was dismissed for default on 10.05.2012. Thereafter, an application for restoration of the appeal, along with an application for getting the delay condoned, was filed before the Appellate Authority. Again, according to the Appellate Authority, the parties were absent and, therefore, the same was dismissed on 04.06.2013 through Ext.P9 order. The same is under challenge. It is a fact that both the parties did not participate in the proceedings and that was why the appeal was dismissed earlier. Again, when the application for restoration was filed, the parties were not present and consequently, the Appellate Authority has dismissed the appeal. Whatever it is, it is a fact that the matter requires consideration. The parties were fighting tooth and nail with their respective contentions with regard to the purchase certificates. In such case, the matter has to be settled ultimately through a proper order on merits.

3. On hearing the learned counsel for both sides

and on considering the facts and circumstances of the case, this Court is satisfied that the appeal can be restored by allowing IA No.61/2013 and IA No.62/2013 in A.A.23/2003 of the Appellate Authority and by setting aside Ext.P9 order.

In the result, this O.P.(Civil) is disposed of by setting aside Ext.P9 order. The appeal stands restored and is remitted to the Appellate Authority for fresh disposal in accordance with law. The parties shall appear before the Appellate Authority (Land Reforms), Thrissur on 03.08.2015.

Sd/-
(B.KEMAL PASHA, JUDGE)

aks/14/07

// True Copy //

PA to Judge