

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

OP(C).No. 1608 of 2015 (O)

IA.NO.70/2014 AND I.A.NO.23/15 IN A.A.19/2014 OF APPELLATE AUTHORITY(LAND
REFORMS), THRISSUR.

PETITIONER:

THENNADAN MUHAMMED RAFI, AGED 48 YEARS,
S/O. THENNADAN ALI, ERNAD TALUK, MANJERI AMSOM
DESOM, MULLAMPARA, P.O.MANJERI,
MALAPPURAM DISTRICT - 676 121.

BY ADVS.SRI.R.RAMADAS
SRI.T.SIVADASAN

RESPONDENT(S):

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1. KORMATH ABDUL RASHEED, AGED 45 YEARS,
S/O. (LATE) KUNHIMUHAMMED, P.O.MANJERI,
N.S.S COLLEGE, VIA MANJERI, ERNAD TALUK,
MANJERI AMSOM DESOM,
MALAPPURAM DISTRICT, PIN - 676 121.
 2. SREEDEVI, AGED 67 YEARS, D/O. LATE KAVUNGAL
MANGALASSERY MANAKKAL DAMODARAN NAMBOOTHIRIPAD,
W/O. UDAYAN NAMBOOTHIRI, PULIYANOOR MANA, EROOR,
TRIPUNITHURA, ERNAKULAM DISTRICT, PIN - 682 306.
 3. K.M.UMADEVI, AGED 65 YEARS,
W/O. KRISHNAN NAMBOOTHIRI, MADAMBI MANA,
MANNAMPATTA, P.O.SREEKRISHNAPURAM,
PALAKKAD DISTRICT- 679 513.
 4. K.M.LALITHA, AGED 63 YEARS,
W/O. SANKARANARAYANAN, PATHIYIL MANA, MEZHATHUR,
P.O.THRITHALA, PALAKKAD DISTRICT, PIN - 679 534.
 5. K.M.BHADRA, AGED 61 YEARS,
W/O. NARENDRAN, P.K.SADANAM, CHERAMKUTHU,
P.O.MANJAPPATTA, MALAPPURAM DISTRICT, PIN .

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6. DAMODARAN NAMBOOTHIRIPAD, AGED 59 YEARS,
S/O. LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANGALASSERY MANA, P.O.ELAMKOOR,
MALAPPURAM DISTRICT, PIN - 676 122.
7. KESAVAN NAMBOOTHIRIPAD, AGED 57 YEARS,
S/O. LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANGALASSERY MANA, P.O.ELAMKOOR,
MALAPPURAM DISTRICT, PIN - 676 122.
8. THIRIPURA K.M, AGED 55 YEARS,
W/O. NARAYANAN, KODOTH MANA, MANNAMPATTA,
P.O.SREEKRISHNAPURAM, PALAKKAD DISTRICT, PIN - 679 513.
9. DEVASENA, AGED 53 YEARS,W/O. PARAMESWARAN,
MANAGALATH MANA, BHARAMAKULAM,
P.O.GURUVAYOOR, THRISSUR DISTRICT, PIN - 680 101.
10. K.M.SIVARANAYANAN, AGED 51 YEARS,
S/O.LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANGALASSERY MANA, P.O.ELAMKOOR,
MALAPPURAM DISTRICT, PIN - 676 122.
11. K.M.ANUJAN, AGED 45 YEARS,
S/O. LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANAGALASSERY MANA, P.O.ELAMKOOR,
MALAPPURAM DISTRICT, PIN - 676 122.
12. SUBRAMANIAN K.M, AGED 45 YEARS,
S/O. LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANGALASSERY MANA, P.O.ELAMKOOR,
MALAPPURAM DISTRICT, PIN - 676 122.
13. SUBHADRA ANTHARJANAM, AGED 83 YEARS,
W/O. LATE DAMODARAN NAMBOOTHIRIPAD,
KAVUNGAL MANGALASSERY MANA, P.O.ELAMKOOR,
ERNAD TALUK, MALAPPURAM DISTRICT, PIN - 676 122.
14. THE APPELLATE AUTHORITY (LAND REFORMS),
THRISSUR, PIN - 680 001.

R14 BY GOVERNMENT PLEADER SRI.REJI JOSEPH

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 08-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - A TRUE COPY OF THE PLAINT IN OS NO. 223/2014 DATED 08.4.14.
- P2 - TRUE COPY OF THE WRITTEN STATEMENT DATED 20TH MAY, 2014 FILED BY THE 1ST DEFENDANT.
- P3 - A TRUE COPY OF THE ORDER DATED 20.10.08 IN S.M NO. 1347/2008, LAND TRIBUNAL, MANJERI.
- P4 - A TRUE COPY OF IA NO. 70/2014 IN AA NO. 19/2014 FILED BY THE 1ST DEFENDANT BEFORE THE APPELLATE AUTHORITY (LAND REFORMS), TRICHUR.
- P5 - TRUE COPY OF THE DETAILED OBJECTION TO IA NO. 70/2014 IN AA NO. 19/2014 FILED BY 1ST DEFENDANT BEFORE APPELLATE AUTHORITY (LR) TRICHUR.
- P6 - A TRUE COPY OF THE IA 23/2015 DATED 07.1.15 WHICH WAS FILED BEFORE THE 14TH RESPONDENT ON 15.1.15.
- P7 - A TRUE COPY OF THE JUDGMENT DATED 15.6.15 IN OP (CIVIL) NO. 1368/2015 PASSED BY HIS HON'BLE COURT.
- P8 - A TRUE COPY OF THE ORDER DATED 14.5.15 IN IA NO. 70/2014 IN AA NO 19/2014 BEFORE THE APPELLATE AUTHORITY (LAND REFORMS), TRICHUR.
- P9 - A TRUE COPY OF THE ORDER DATED 14.5.15 IN IA NO.23/2015 IN AA NO. 19/2014 BEFORE THE APPELLATE AUTHORITY (LAND REFORMS), TRICHUR.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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B. KEMAL PASHA, J.

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O.P.(C) No.1608 of 2015
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Dated this the 8th day of July, 2015

J U D G M E N T

What is under challenge is Exts.P8 and P9 orders passed by the Appellate Authority(LR), Thrissur. Through Ext.P8, it seems that the Appellate Authority has condoned the delay of 2044 days occurred in filing the appeal.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. According to the learned counsel for the petitioner, no opportunity was given to the petitioner to substantiate the fact that the delay was not liable to be condoned. On a perusal of Ext.P8 it seems that the Appellate Authority has not adverted to the contentions resorted to by the petitioner. Ext.P8 cannot be treated as an

order on merits. Matters being so, Ext.P8 is liable to be set aside and the matter is liable to be remitted to the Appellate Authority for fresh disposal in accordance with law, after giving an opportunity to both sides.

4. Through IA 23/2015 the petitioner has sought for the stay of the proceedings before the Appellate Authority till a decision is taken in Ext.P1 suit. It seems that the Appellate Authority has dismissed the said IA. by holding: *“The petition is dismissed, as the decision of Munsiff Court, Manjeri will be irrelevant in deciding tenancy right.”* The said finding is not based on any observations. Moreover, the said IA seems to be premature. Without prejudice to the right of the petitioner for moving the said IA at appropriate stage as against Ext.P9, this Original Petition can be disposed of.

In the result, this Original Petition is disposed of without prejudice to the right of the petitioner for moving the said IA at appropriate stage. Ext.P8 order is set aside and

the matter is remitted to the Appellate Authority for fresh disposal in accordance with law, after giving an opportunity to both sides. There will be a further direction to the Appellate Authority to dispose of IA No.70/2014, as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this judgment.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge