

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

OP(C).No. 748 of 2014 (O)

A.A.NO.58/2010 OF THE APPELLATE AUTHORITY, ALAPPUZHA
O.S.NO.837/2012 OF THE PRINCIPAL SUB COURT, THIRUVANANTHAPURAM

PETITIONER:

1. JAMEELA BEEVI
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
2. M H SHAJAHAN
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
3. M ABDUL RASHEED
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
4. M H SALIM
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
5. NABEESA BEEVI
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
6. M H ZAKKIR HUSSAIN
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
7. MAJITHA BEEGUM
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
8. SHAJEELA
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE

9. HAMAR BAN
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
10. SABEENA N
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
11. BANAZEER
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE
12. SOUDHA BEEVI
JAMEELA MANDIRAM
KOCHUVELI, KARIKKAKAM MURI
KADAKAMPILLY VILLAGE

BY ADV. SRI.M.BALAGOVINDAN

RESPONDENTS:

1. MYTHEN PICHA, S/o. ABDUL RAHMAN
T C 32/267, KOCHUVELI TITANIUM P O
THIRUVANANTHAPURAM 695012
2. APPELLATE AUTHORITY
OFFICE OF THE APPELLATE AUTHORITY
ALLAPUZHA 688001
3. DISTRICT COLLECTOR
COLLECTORATE, TRIVANDRUM 695001
4. S SASIKALA DEVI
D/o. P SOUDAMINI AMMA
PRESIDING OFFICER, APPELLATE AUTHORITY (LR)
ALLAPUZHA 688001

R1 BY ADV. SRI.LAL GEORGE
R3 BY ADV. GOVERNMENT PLEADER: SRI A RENJITH
R4 BY ADV. SMT.K.G.BINDU &
BY ADV. SMT.T.S.MAYA

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 20-07-2015 ALONG WITH F.A.O.NOS.25 & 138 OF 2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT P1 : TRUE COPY OF THE ORDER IN CRP 968/1994
EXT P2 : TRUE COPY OF THE JUDGMENT IN O.A. 26/2008
EXT P3 : TRUE COPY OF THE MEMORANDUM OF APPEAL IN A.A.58/2010
EXT P4 : TRUE COPY OF THE JUDGMENT IN W.P(C).25426/2007
EXT P5 : TRUE COPY OF THE SUIT OS 837/2012
EXT P6 : TRUE COPY OF THE INTERIM ORDER IN F A O 25/2013
EXT P7 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY the 3rd
RESPONDENT THROUGH 4th RESPONDENT.

RESPONDENTS' EXHIBITS:

EXT R1(a) : COPY OF THE WRITTEN STATEMENT FILED BY the APPELLANTS
IN LAR NO.93/03 SUB COURT, THIRUVANANTHAPURAM
EXT R4(a) : TRUE COPY OF G.O.(Rt).NO.4362/2014/RD DATED 04.09.2014
ISSUED BY JOINT SECRETARY TO GOVERNMENT
EXT R4(b) : TRUE COPY OF LETTER NO.GP IV/1093/13 DATED 25.07.2003
ISSUED BY ADDITIONAL GOVERNMENT PLEADER AND PUBLIC PROSECUTOR
EXT R4(c) : TRUE COPY OF LETTER NO.K4-79513/07 DATED 17.10.2012
ISSUED BY the OFFICE OF THE DISTRICT COLLECTOR ALONG WITH BRIEF HISTORY
IN O.S.837/12 FILLED BY SMT.JAMEELA BEEVI AND OTHERS.

True Copy /

P.A to Judge

**THOTTATHIL B. RADHAKRISHNAN &
SUNIL THOMAS, JJ.**

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F.A.O.Nos.25 & 138 of 2013 and O.P(C).No.748 of 2014

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Dated this the 20th day of July, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

Heard learned counsel for the parties.

2. These F.A.Os and O.P(C) under Article 227 of the Constitution of India are intertwined in so far as the basic facts and disputes are concerned.

3. Issues generated by an application under Section 72(B) of the Kerala Land Reforms Act, 1963, for short, the “KLR Act”, had reached this Court in the form of a civil revision petition under Section 103 of that Act. That matter was remitted and consequently, the proceedings on that issue went back to the Land Tribunal. Thereafter, the Land Tribunal re-numbering the proceedings, adjudicated the matter and issued a fresh order. That decision of the Land Tribunal is pending before the Appellate Authority (Land Reforms), Alappuzha as A.A.No.58 of 2010. That is an appeal under Section 102 of KLR Act.

4. Pending the aforesaid proceedings under the KLR Act, the land in dispute happened to be brought under land acquisition

proceedings in terms of the Land Acquisition Act, 1894 and L.A.C.No.32 of 2000 was booked. Those proceedings have reached a stage where one of the rival parties is stated to have received the amounts without appropriate adjudication. Jameela Beevi and others, who are on one side, filed O.S.No.837 of 2012 before the Sub Court, Thiruvananthapuram seeking a decree against the other parties for the amount that was stated to have been wrongly appropriated. The District Collector, Thiruvananthapuram and the Appellate Authority (LR) were impleaded in that suit as additional defendants. The Appellate Authority purportedly acting on behalf of the District Collector as well filed a written statement essentially touching on the merits in dispute as between the rival private parties.

5. O.P(C).No.748 of 2014 is filed seeking a direction that the proceedings before the Appellate Authority shall not be heard by the Officer who had filed the written statement and also that the said written statement cannot be acted upon. As of now, the interim orders issued through the captioned F.A.Os have secured that the money is in the Treasury and has not been disbursed to either of the parties.

6. All that is required at this point of time is that the Appellate Authority (LR), Alappuzha has to conclude the proceedings in A.A.No.58 of 2010 which would be decisive as far as the rights of parties are concerned and until then, interlocutory orders issued through F.A.O.Nos.25 of 2013 and 138 of 2013 should continue to be in force, thereby ensuring that the money would not be disbursed until the issues are decided by the Appellate Authority under the provisions of the KLR Act. Obviously, it also needs to be emphasized that the proceedings under the KLR Act will have to be carried forward in such a manner that there is an expeditious conclusion of proceedings since that litigation initially started sometime in 1968.

7. For the aforesaid reasons, the F.A.Os are ordered directing that the interim orders granted on 19.06.2013 in both the appeals will continue until the issues relating to the application under Section 72(B) of the KLR Act, now pending before the Appellate Authority (LR), Alappuzha are finally decided. The original petition is ordered recording the submission of the learned Government Pleader that the Officer who was the Presiding Officer of the Appellate Authority at the relevant point of time, has been transferred on routine administrative reasons and it will be ensured that the matter is not considered by that Officer. It is further

submitted that the proceedings before the Appellate Authority (LR), Alappuzha in A.A.No.58 of 2010 shall be concluded either way within a period of six months from the date of receipt of a copy of this judgment. We leave open the effect of the written statement filed by the said Officer in the civil court since that is an issue for the trial court dealing with that case to ultimately speak on.

The original petition and F.A.Os are ordered accordingly.

Sd/-

THOTTATHIL B. RADHAKRISHNAN
Judge

Sd/-

SUNIL THOMAS
Judge

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