

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA, 1937

OP(C).No. 4545 of 2013 (O)

SM 24/80 of TALUK LAND BOARD, CHITTUR.

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PETITIONER(S):

- 1. BABY,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 2. JAYAPALAN,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 3. VIJAYAN,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 4. KARTHIKEYAN,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 5. PRABHALAN,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**
- 6. MOHANDAS,
S/O.LATE VELAYUDHAN, UPPUMANPADIKAYIL,
THEKKEDESOM VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.**

**BY SRI.T.KRISHNAN UNNI, SENIOR ADVOCATE.
ADVS. SRI.C.A.JOY,
SRI.SAJU.S.A,
SMT.PA.SHEEJA.**

OP(C).No. 4545 of 2013 (O)

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
DEPARTMENT OF REVENUE,
THIRUVANANTHAPURAM- 695 001.**
- 2. LAND BOARD,
THIRUVANANTHAPURAM -695 001.**
- 3. TALUK LAND BOARD,
CHITTUR, PALAKKAD DISTRICT,
REPRESENTED BY ITS CHAIRMAN, PIN -678 101.**
- 4. THE TAHSILDAR, CHITTUR TALUK,
POST CHITTUR, PALAKKAD DISTRICT -678 101.**

BY SR. GOVT. PLEADER SMT.SUNITHA VINOD.

**THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON 02-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1 COPY OF THE PROCEEDINGS OF THE TALUK LAND BOARD, CHITTUR
DATED 28/05/1986.
- EXHIBIT P2 COPY OF THE ORDER DATED 29/05/1989 ISSUED BY THE TALUK
LAND BOARD.
- EXHIBIT P3 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS
BEFORE THE TALUK LAND BOARD DATED 01/12/2010.
- EXHIBIT P4 COPY OF THE PROCEEDINGS OF THE TALUK LAND BOARD
DATED 28/01/2011.
- EXHIBIT P5 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS
BEFORE THE 4TH RESPONDENT DATED 14/06/2013.
- EXHIBIT P6 COPY OF THE COMMUNICATION ISSUED BY LAND BOARD,
TRIVANDRUM TO THE 1ST PETITIONER DATED 17/07/2013.
- EXHIBIT P7 COPY OF THE REPLY ISSUED BY THE 4TH RESPONDENT UNDER
RTI ACT DATED 04/07/2014.

RESPONDENT'S ANNEXURE:-

- ANNEXURE R4A COPY OF THE ORDER DATED 03/12/1997.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. ABRAHAM MATHEW, J.

O.P.(C)No.4545 of 2013

Dated this the 2nd day of December, 2015

J U D G M E N T

The predecessors of the petitioners was a declarant under the Kerala Land Reforms Act, the proceedings being SM.24/80 of Taluk Land Board, Chittur. The declarant was directed to surrender 6.46 acres of property. Accordingly, the government took possession of the property as the declarant did not surrender it. After the death of the declarant, his legal heirs, who are the petitioners before this court, filed Ext.P2 application requesting the Taluk Land Board to consider surrendering equal extent of land in another survey number instead of the property the possession of which was taken by the government. That was not allowed. So they filed W.P.(C)37046 of 2010 for a direction to the Taluk Land Board to reconsider their application. This court allowed it. Thereafter, the Taluk Land Board has passed Ext.P4 order holding that the possession of which was taken was already assigned to landless

persons. It is observed that in spite of the appearance of the petitioners through a counsel in the Taluk Land Board, they did not file a written statement or did not take part in the proceedings. This is challenged in these proceedings.

2. Heard the learned senior counsel Adv.Sri.Krishnanunni and learned government pleader.

3. A report was called for from the village officer concerned. From the report it is not clear whether the assignees are in possession of the property. The learned senior counsel submits that the cultivation seen in some parts of the properties allegedly assigned by the government was raised by the petitioners. In these circumstances, I am inclined to issue a direction to the Taluk Land Board to give the petitioners one more opportunity to agitate their matter. If the Taluk Land Board finds that the assignees are not in possession of the property, it may reconsider the request of the petitioners.

In the result, this OP is disposed of with a direction to the Taluk Land Board to ascertain whether the assignees are in actual possession of the properties assigned to them and if they are not in possession of the property to give an

opportunity to the petitioners to agitate their matter. The Taluk Land Board shall independently consider it and pass appropriate orders.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge