

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

OP(C).No. 2547 of 2014 (O)

SM 393/2011 of TALUK LAND BOARD, TIRUR

PETITIONER :

**U.MOHAMMEDKUTTY, AGED 56 YEARS,
S/O.HYDRU, OOROTHYIL HOUSE, OZHUR P.O.
676 313, TIRUR TALUK, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS :

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- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY
LAND REVENUE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695001.**
 - 2. THE SPECIAL TAHSILDAR (LR),
LAND TRIBUNAL, TIRUR-676101.**
 - 3. PILATHOTTATHIL MOIDEEN,
S/O.MOHAMMED, PILATHOTTATHIL HOUSE, THALAKKATHUR,
TIRUR TALUK, MALAPPURAM-676 313.**
 - 4. PILATHOTTATHIL MOHAMMEDHALI,
S/O.MOHAMMED, PILATHOTTATHIL HOUSE, THALAKKATHUR,
TIRUR TALUK, MALAPPURAM-676 313.**
 - 5. PILATHOTTATHIL MOHAMMED,
PILATHOTTATHIL HOUSE, THALAKKATHUR, TIRUR TALUK,
MALAPPURAM-676 313.**

***CORRECTED AS :**

**THE NAME OF R5 IS CORRECTED AS PILATHOTTATHIL KUNHI PATHUMMA,
D/O. PILATHOTTATHIL MOHAMMED, PILATHOTTATHIL HOUSE,
THALAKKATHUR, TIRUR TALUK, MALAPPURAM DISTRICT.**

AS PER THE ORDER DTED 2/12/2014 IN IA 16325/14.

**R1 & R2 BY GOVERNMENT PLEADER SRI. REJI JOSEPH
R3 & R4 BY ADV. SRI.C.M.MOHAMMED IQUABAL**

**THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 13-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: COPY OF THE SUO MOTO REPORT IN SM 393/2011 OF THE 2ND RESPONDENT.
- P2: COPY OF THE RELEVANT PORTION OF THE PARTITION DEED NO.2900/1895.
- P3: COPY OF THE REPORT DATED 10/4/2012 OF THE VILLAGE OFFICER, OZHUR.
- P4: COPY OF THE REPORT OF THE TALUK SURVEYOR, TIRUR DATED 21/1/2013.
- P5: COPY OF THE IMPEADING PETITION FILED BY THE PETITIONER BEFORE THE LAND TRIBUNAL, TIRUR DATED 22/9/2011.
- P6: COPY OF THE OBJECTION DATED 16/2/2012 FILED BY THE RESPONDENTS 3 TO 5 BEFORE THE LAND TRIBUNAL, TIRUR.
- P7: COPY OF THE PETITION WITH LIST OF DOCUMENTS PRODUCED BY THE PETITIONER BEFORE THE LAND TRIBUNAL, TIRUR IN S.M.393/2011.
- P8: COPY OF THE LIST OF DOCUMENTS PRODUCED BY THE PETITIONER BEFORE THE LAND TRIBUNAL, TIRUR IN S.M.393/2011 ON 13/8/2012.
- P9: COPY OF THE LIST OF DOCUMENTS PRODUCED BY THE PETITIONER BEFORE THE LAND TRIBUNAL, TIRUR IN S.M.393/2011 ON 25/6/2012.
- P10: COPY OF THE ADDITIONAL COUNTER AFFIDAVIT FILED BY THE RESPONDENTS 3 TO 5 IN S.M.NO.393/2011 BEFORE THE LAND TRIBUNAL, TIRUR.
- P11: COPY OF THE ORDER DATED 29/9/2014 IN S.M.393/2011 OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS :

- EXT.R3(A): COPY OF THE MEMORANDUM OF APPEAL IN AA 57/2014 OF THE APPELLATE AUTHORITY, THRISSUR DT 27/10/2014.
- EXT.R3(B): COPY OF I.A. 131/2014 IN AA 57/2014 OF THE APPELLATE AUTHORITY, THRISSUR DT 28/10/2014.
- EXT.R3(C): COPY OF THE COMPLAINT FILED BEFORE THE KERALA STATE WAKF BOARD DT 4/4/2014.

//TRUE COPY//

P.S. TO JUDGE

bp

P. BHAVADASAN, J.

O.P. (C) No. 2547 of 2014

Dated this the 13th day of February, 2015.

JUDGMENT

The short question that arises for consideration is whether the Land Tribunal is justified in dismissing the impleading petition filed by the petitioner while disposing of the main matter.

2. The facts absolutely necessary for the disposal of this petition are as follows:

The contesting respondents moved for assignment of right, title and interest over the property and the petitioner says that coming to know about the same, he realised that his property was to be dealt with and filed a petition to implead himself. That petition was kept pending and ultimately when the order was passed in favour of the contesting respondents herein, his impleading petition was dismissed.

3. It is an admitted fact that the petitioner has filed an appeal challenging the order granting assignment infavour of the contesting respondents. It is also not dispute that a stay petition has been moved before the appellate court. When the appeal is pending, it is unnecessary to question as to whether the impleading petition has been properly dealt with or not. The petitioner can very well urge this fact at the time of hearing of the appeal.

4. Learned counsel for the petitioner points out that the petitioner has also filed a stay petition before the appellate court and the appellate court may be directed to take up and dispose of the matter so as to avoid further complication.

This Original Petition is disposed of directing the appellate court to take up the appeal along with the stay petition and pass appropriate orders thereon in accordance with law after hearing both sides. The stay petition may be

considered first and after hearing both sides appropriate orders be passed thereon forthwith and thereafter dispose of the appeal as expeditiously as possible, at any rate, within four months from the date of receipt of a copy of this judgment.

P. BHAVADASAN,
JUDGE

sb.