

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 1089 of 2013 (I)

PETITIONER :

**T.M. ALIYAMMA, AGED 74 YEARS,
W/O. LATE CHACKO, OREVENMURIYIL HOUSE, NELLAD POST
VEETTOOR, MAZHUVANNUR VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.ANOOP.V.NAIR
SRI.R.SREEHARI**

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
REVENUE DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. THE COMMISSIONER OF LAND REVENUE
OFFICE OF THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDINGS, THIRUVANANTHAPURAM-695 012.**
- 3. DISTRICT COLLECTOR, CIVIL STATION,
ERNAKULAM, KAKKANAD-680 030.**
- 4. THE TAHSILDAR, KUNNATHUNAD TALUK,
KUNNATHUNAD, PERUMBAVOOR-683 542.**
- 5. THE VILLAGE OFFICER, MAZHUVANNUR,
MAZHUVANNUR POST, PIN-686 669.**

R1 TO R5 BY GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE APPLICATION DTD.28.10.2008 FOR ASSIGNMENT OF THE LAND.
P2 : COPY OF PROFORMA REPORT OF THE 5TH RESPONDENT DTD.6.11.2008.
P3 : COPY OF THE REPORT OF THE 4TH RESPONDENT DTD.14.8.2009.
P4 : COPY OF THE ORDER DTD.3.10.2009 OF THE 3RD RESPONDENT.
P5 : COPY OF THE ORDER DTD.26.10.2010 OF THE 2ND RESPONDENT.
P6 : COPY OF THE GOVERNMENT ORDER GO(MS)NO.163/12/RD, DTD.21.4.2012.
P7 : COPY OF THE COMMUNICATION DTD.18.8.2012 OF THE OFFICE OF THE CHIEF
MINISTER OF KERALA.

RESPONDENTS' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 1089 of 2013

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Dated this the 16th day of December, 2015

J U D G M E N T

The issue in this writ petition is relating to assignment of 16.91 Ares of land to the petitioner. This has been rejected by the Government as per the order dated 21.4.2012 produced as Ext.P6. The only reason stated in the ground is that the petitioner and her husband have possession of other land and it is not included in the assignable list prepared by the District Collector. It is obvious that the Government considered the request of the petitioner as though the petitioner is seeking the benefit as a landless person for the purpose of assignment.

2. The learned counsel for the petitioner points out the Rule 7(1) of the Land Assignment Rule which provides the priority to the assignment based on the aspect of occupation of the said land before the appointed day viz. 01.08.1971. The proviso to Rule 5(1) laid downs the total extent of the land held by such person shall not exceed certain limit.

3. Therefore this Court is of the view that, since the petitioner is having a case that he has only 1.08 Acres of land and which is less than the limit under Rule 5(1), the matter requires reconsideration by the Government to find whether the petitioner has any land exceeding the limit under Rule 5(1) and whether the petitioner is entitled for the benefit of Rule 7(1).

4. Therefore, after calling necessary report and advertizing to the Rule 5(1) as well as Rule 7, the Government shall reconsider the matter, based on the report submitted by the District Collector regarding any right in respect of any other land. Appropriate decision in this regard shall be taken by the Government within a period of 4 months from the date of receipt of the copy of this judgment after notice to the petitioner. In view of the above, Ext.P6 order is set aside. Till the decision is taken by the Government, the interim order passed by this Court will continue.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE

