

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

R.P.No. 2 of 1998 IN CRP.1159/1988

AGAINST THE ORDER IN CRP 1159/1988 of HIGH COURT OF
KERALA DATED 17-01-1992.
TLB NO. 683/73 OF THE TALUK LAND BOARD,
MANANTHAVADY.

PETITIONER(S)/RESPONDENT IN CRP:

1. STATE OF KERALA, REPRESENTED
BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT,
THIRUVANANTHAPURAM.
2. TALUK LAND BOARD, MANANTHAVADY,
REPRESENTED BY CHAIRMAN.

BY ADV. GOVERNMENT PLEADER SMT. SUSHEELA BHAT.

RESPONDENT(S)/PETITIONER & 1ST RESPONDENT IN THE CRP:

1. T.V.RAMAKRISHNA NAIDU,
BUSINESSMAN,
RESIDING AT MADHURA,
FLAT NO. 4-A, KALAKSHTRA COLONY,
RUKMINY ROAD, BASANT NAGAR, MADRAS-90.

ADDL. R2 IMPEADED

2. MANANTHAVADY GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE GRAMA PANCHAYAT,
MANANTHAVADY, WAYANAD DISTRICT.

ADDL. R2 IS IMPEADED AS PER ORDER DTD.
8.3.2007 IN C.M.P. 1567/1998.

R1 BY ADV. SRI.V.V.SURENDRAN
SRI.A.S.BENOY
SRI.P.A.HARISH
R2 BY ADV. SRI.P.C.SASIDHARAN

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 25-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P. BHAVADASAN, J.

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R.P. No. 2 of 1998 in
C.R.P. No. 1159 of 1988

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Dated this the 25th day of June, 2015.

ORDER

An order dated 17.1.1992 in C.R.P 1159 of 1988 is sought to be reviewed now, that is after a lapse of 24 years.

2. The case had a checkered career beginning from 1973 onwards. Shorn off unnecessary details, the ceiling proceedings initiated against Shri.I.V.Ramakrishna Naidu ultimately culminated in an order dated 23.4.1984 by the Taluk Land Board, Mananthavady. It was found that after giving due allowances for the exclusions, the family was liable to surrender an extent of 2.60 acres.

3. That order was challenged by the declarant before this Court. It is stated by the learned Government Pleader that in pursuance to the interim order passed by this Court whereby the declarant was directed to surrender 2 acres, the

Taluk Land Board has taken possession of 96 cents.

4. The controversy in fact related to 3.33 acres of land which according to the declarant was coffee plantation liable for exemption under the Kerala Land Reforms Act. The Taluk Land Board, on verification initially found it difficult to accept the plea of the declarant and found that it is not possible to be treated under the exempted category. Finally the C.R.P. was allowed by this Court and the Taluk Land Board was directed to reconsider the issue regarding 3.33 acres, a coffee plantation. On re-consideration, the Taluk Land Board held that the declarant is entitled to exemption resulting in the state of affairs leading to return of 96 cents which one could say was illegally taken possession of from the declarant under the guise that he had excess land to surrender. The Government re-conveyed 46 cents and they were unable to reconvey 50 cents of land as they pointed out that it has been handed

over to the Panchayat who have put up a community hall therein. The order refusing to reconvey 56 cents was the subject matter in C.R.P.1159 of 1988 which was disposed of by order dated 17.1.1992. This Court, after considering the various aspects felt that in the light of the incompatibility on the part of the State to reconvey 50 cents of land, they were bound to pay compensation to the declarant as if there has been an acquisition under the Land Acquisition Act. While disposing of the C.R.P. this Court pointed out that the date of the judgment will be taken as the date of Section 4(1) notification. Six years thereafter, the State came forward with the present review petition. They say that the 50 cents which they claimed to have been handed over to the Panchayat in which a Community Hall was put up was the subject matter of gift by the declarant to the Panchayat and therefore, they are not bound to return the same. It is on that basis that review has been sought.

5. In the counter affidavit filed by the respondent, i.e., the petitioner in the C.R.P. before this Court, it is pointed out that it is true that the declarant had gifted certain property in favour of the Panchayat, and as the Panchayat did not utilize the property for the purpose for which it has been gifted, the property had been taken possession of pursuant to the decree in O.S. 61 of 1974 by the Munsiff's Court, Mananthavady. The respondent in this review petition has produced the copy of the judgment and decree in O.S. 61 of 1974, the execution petition and delivery account also. The delivery account, namely, Ext.A4, clearly shows that the lands gifted to the Panchayat were taken re-possession of in pursuance to the decree in O.S. 61 of 1974.

6. The Panchayat has been made a party in the review petition. It is significant to notice that going by the review petition, Panchayat informed the Government about the gift in 1997. It

is interesting to note that the property gifted were taken repossession of by the respondent in 1975 itself. One fails to understand as to how the Panchayat in 1997 informed the Government that Community Hall was put up in the property gifted by the respondent in the review petition. Obviously, the claim of the Panchayat is false.

7. If it is found that the claim of the Panchayat that the 50 cents in which the community Hall was put up, though was subject matter of gift initially, was resumed possession by the respondent herein by virtue of the decree in O.S. 61 of 1974, it could not be said that the Panchayat obtained the property by way of gift. It is also interesting to note that State has represented before this Court that out of the 96 cents taken possession of when there was a direction from this Court to the declarant to surrender 2 Acres, 50 cents was given to the Panchayat wherein they have put up a Community Hall. The stand of the

Government therefore is that Community Hall was put up in the 50 cents property gifted after resuming possession from the declarant in the case. This also betrays the State's present stand that 50 cents of land is subject matter of gift.

8. The result is that the claim made by the State that Community Hall is put up in the 50 cents of land gifted by the declarant is not correct. If that be so, the order of this Court in the C.R.P. has only to stand.

This Review Petition is without merits and it is accordingly dismissed.

sb.

P. BHAVADASAN,
JUDGE