

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN
&
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN**

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

WP(C).No. 2115 of 2014 (L)

PETITIONER(S):

**1. SUBRAMANIAN, AGED 46 YEARS,
S/O.RAMAN NAMBOODIRI, MAMBILLI MANA, THRISSUR.**

**2. JAYAN, AGED 50 YEARS
S/O.RAMAN NAMBOODIRI, MAMBILLI MANA, THRISSUR.**

**BY ADVS.SRI.RENJITH THAMPAN (SR.)
SMT.P.R.REENA**

RESPONDENT(S):

**1. COCHIN DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY
OFFICE OF COCHIN DEVASWOM BOARD,
THRISSUR, PIN-680 001.**

**2. SPECIAL TAHSILDAR,
COCHIN DEVASWOM BOARD
OFFICE OF COCHIN DEVASWOM BOARD,
THRISSUR, PIN-680 001.**

**3. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.**

**4. DISTRICT COLLECTOR,
THRISSUR, PIN-680 003.**

**5. ADDITIONAL TAHSILDAR AND SETTLEMENT OFFICER,
UNDER THE KERALA SERVICE INAM LAND
(VESTING AND ENFRANCHISEMENT) ACT,
COLLECTORATE, THRISSUR, PIN-680 003.**

**R1 & R2 BY ADV. SRI.G.RAJAGOPAL, SC, COCHIN DEVASWOM BOARD
R3-R5 BY ADV. GOVERNMENT PLEADER**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE G.O.MS NO.101/2009/RD DATED 21.2.2009.
- EXT.P-2: TRUE COPY OF THE MEMO NO.C.P.NO.10/10 DATED 12.11.1934 ISSUED BY THE SECRETARY TO THE DIVAN OF COCHIN ALONG WITH THE COPY OF OZHIVU.
- EXT.P-3: TRUE COPY OF THE RELEVANT PAGE OF THE PARTITION DEED DATED 26.10.1957.
- EXT.P-4: TRUE COPY OF THE BASIC TAX RECEIPT DATED 17.3.1972 ISSUED BY THRISSUR VILLAGE OFFICER.
- EXT.P-5: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 18.7.01 ISSUED BY THE VILLAGE OFFICER.
- EXT.P-6: TRUE COPY OF THE POSSESSION CERTIFICATE DATED 18.7.2001 ISSUED BY THE VILLAGE OFFICER.
- EXT.P-7: TRUE COPY OF THE CERTIFICATE ISSUED BY THE DISTRICT INDUSTRIES CENTRE DATED 24.4.1985 SHOWING THAT THE YOGASHEMAM TRUST.
- EXT.P-8: TRUE COPY OF THE ORDER OF THE DISTRICT COLLECTOR DATED 12.9.2012.
- EXT.P-9: TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE VILLAGE OFFICER, REGARDING THE AFORESAID PROPERTIES DATED 8.2.2008.
- EXT.P-10: TRUE COPY OF THE SKETCH SHOWING THE LYE OF THE PROPERTY.
- EXT.P-11: TRUE COPY OF THE APPLICATION FILED BY THE 2ND PETITIONER BEFORE THE SETTLEMENT OFFICER DATED 8.8.2013.
- EXT.P-12: TRUE COPY OF THE ORDER OF THE SETTLEMENT OFFICER DATED 2.1.2014.

RESPONDENT(S)' EXHIBITS NIL

/TRUE COPY/

P.A. TO JUDGE

VPV

P.N.RAVINDRAN & ANIL K.NARENDRA, JJ.

=====

W.P.(C).No.2115 of 2014

=====

Dated this the 3rd day of February, 2015

JUDGMENT

P.N.Ravindran, J.

The petitioners are brothers. Proceedings were initiated against the first petitioner by the Special Tahsildar, Cochin Devaswom Board under the provisions contained in the Kerala Land Conservancy Act, 1957 to evict him from 0.0991 hectares of land situated in Sy.No.1552/3, 7 of Thrissur Village, Thrissur Taluk. An order of eviction followed on 28.7.2008. The appeal therefrom filed by the first petitioner before the Revenue Divisional Officer, Thrissur was dismissed by order passed on 12.10.2011. The first petitioner thereupon filed a revision petition before the District Collector, Thrissur. In the appeal filed before the Revenue Divisional Officer as also in the revision petition filed before the District Collector, the first petitioner had raised a contention that the application for assignment filed by him under the Kerala Service Inam Lands (Vesting and Enfranchisement) Act, 1981 (hereinafter referred to as "the Act" for short) is pending before the Settlement Officer. Taking note of that fact, the District Collector disposed of the revision

petition filed by the first petitioner by Ext.P8 order dated 12.9.2012 with a direction to the Settlement Officer appointed under the Act to take an appropriate decision on the application submitted by the first petitioner for assignment. By that order, the District Collector also stayed the implementation of the orders passed by the Special Tahsildar, Cochin Devaswom Board/Revenue Divisional Officer. The Special Tahsildar, Cochin Devaswom Board was directed to take further steps in accordance with the decision taken by the Settlement Officer. It is stated that the application filed by the first petitioner under the Act for assignment has not so far been disposed of and it is pending.

2. The second petitioner had likewise filed Ext.P11 application for assignment of 3.348 cents of land situated in Sy.No.1552/5 of Thrissur Village, Thrissur Taluk. It was rejected by the Settlement Officer by Ext.P12 order dated 2.1.2014 on the ground that the time stipulated by the Government in rule 3 of the rules framed under the Act has expired and therefore, the application cannot be entertained. W.P.(C)No.2115 of 2014 was thereupon filed on 20.1.2014 seeking a declaration to the effect that the amendment to rule 3 of the rules prescribing the period of limitation is void and unconstitutional and seeking a writ in the nature of mandamus

commanding the Settlement Officer to consider the applications filed by the petitioners for assignment under the Act and pass orders thereon within a time limit to be stipulated by this Court.

3. When this writ petition came up for hearing before this Court on 19-1-2015 along with W.P.(C).No.1341 of 2014, we requested the Government Pleader to get instructions from the Secretary to Government, Revenue Department as to whether the Government proposes to enlarge the time limit stipulated in rules 3 and 4 of the Kerala Service Inam Lands (Vesting and Enfranchisement) Rules, 1981 (hereinafter referred to as "the Rules" for short) for submission of applications for assignment of service inam lands by persons who were in possession as on the date of commencement of the Act.

4. When this writ petition came up for hearing today, the learned Government Pleader made available to us a copy of G.O.(P) No.498/2014/RD dated 29-11-2014, published in the Kerala Gazette Extraordinary No.2949 dated 3.12.2014, whereby the Government have amended rule 3 of the Rules and enlarged the time limit for filing applications for assignment under the Act up to 31.12.2015. The aforesaid amendment to the Rules redresses the grievances of the petitioners and therefore it is not necessary for

this Court to decide on the validity of the rules.

5. In the light of the amendment to the Rules brought about by the Government, the proper course will be to set aside Ext.P12 order and dispose of the writ petition with a direction to the Settlement Officer, before whom the applications submitted by the petitioners for assignment under rule 3 of the Rules are pending, to dispose of the applications in accordance with law in a time bound manner.

We accordingly allow the writ petition, quash Ext.P12 order dated 2.1.2014 issued by the fifth respondent, restore the application covered by the said order to file and direct the fifth respondent to dispose of the applications filed by the petitioners for assignment under the Act expeditiously and in any event within an outer limit of six months from the date on which the petitioners produce a copy of this judgment before him. Needless to say, the fifth respondent shall afford the petitioners as well as the Cochin Devaswom Board an opportunity to adduce evidence in support of the rival contentions. Until orders are passed in accordance with the direction herein, the proceedings, if any, initiated against the petitioners under the Kerala Land Conservancy Act, 1957 shall be kept in abeyance and further action shall be taken only depending

upon the outcome of the applications filed by the petitioners for assignment under the Act.

Sd/-

**P.N.RAVINDRAN
JUDGE**

Sd/-

**ANIL K.NARENDRA
JUDGE**

vpv/skj