IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 7988 of 2009 (P)

PETITIONER(S):

K.C.PHILIP, S/O.SRI.K.T.CYRIAC,
KANDATHUMTHODIYIL HOUSE,
PUTHUPADI VILLAGE, KOZHIKODE

BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.P.RAGHUNATH

RESPONDENT(S):
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1. TAHSILDAR, KOZHIKODE.

2. VILLAGE OFFICER, PUDUPPADY.

3. TALUK LAND BOARD,
REVENUE DIVISIONAL OFFICE, KOZHIKODE

BY SENIOR GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PJ

WP(C).No. 7988 of 2009 (P)

APPENDIX

PETITIONERS' EXHIBITS

P1: COPY OF NOTICE NO.TLB(K)43/90/R DT.27/6/92

P2: COPY OF ORDER IN OP.9646/92 DT.28/7/92

P3: COPY OF POSSESSION CERTIFICATE DT.19/11/04

P4: COPY OF RECEIPT FOR PAYMENT OF BASIS TAX FOR 2006-07

P5: COPY OF CIRCULAR DT.18/6/08 ISSUED BY PRINCIPAL OF SECRETARY, REVENUE

P6: COPY OF LETTER ISSUED BY TLB DATED 18/9/08

P7: COPY OF LETTER DT.26/12/08 SUBMITTED TO VILLAGE OFFICER

P8: COPY REPLY DATED 29/12/08 FROM VILLAGE OFFICER.

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.7988 of 2009

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Dated this the 4th day of November, 2015

JUDGMENT

The petitioner has approached this Court alleging that he had purchased some properties originally owned by Ms. Amalgamated Malabar Estates Private Limited in 1991 in respect of whom, Land Board Proceedings had been concluded as early as 1976. He further alleges that thereafter in 1992, an attempt was made to review the earlier order invoking the provisions of Section 85(9A) of the Kerala Land Reforms Act, 1989 which was quashed by this Court as per order in O.P No.9646/1992 dated 28.7.1992. Thereafter the Village Officer, Puduppady certified that the impugned properties are in the petitioner's possession and had been accepting basic tax upto 2006-07. Thereafter the Village Officer refused to accept the basic tax stating that as per letter issued by the Taluk Land Board dated 18.9.2008, tax cannot be accepted until proceedings before this Court in respect of certain extent of land in R.S Nos.1/1 and 100/1 are concluded, notwithstanding the fact that proceedings initiated as early as 1992 have been quashed by this Court.

2. In the counter affidavit filed by the third respondent, it is contended as follows:

The land ceiling case relating to the Amalgamated Malabar Estate Pvt. Ltd. has been finalised as per TLB(K) 522/73. Again, the matter was re-opened as per TLB(K) 3/90, since the company is holding excess land. As per the proceedings No.LB(B) 8-29944/90 K.Dis. dated 8.11.1990 of the Land Board Secretary, permission was granted to initiate *suo motu* action under Section 87 of the Kerala land Reforms Act against M/s.Amalgamated Malabar Estate Pvt. Ltd., Puthuppady. The land involved in the ceiling proceedings had been sold out by the company to the petitioner herein during the period of 1991. The Government have taken steps to stop the alienation of land involved in TLB proceedings. The transaction of the land involved in the ceiling proceedings is illegal and invalid. To stop further alienation of the land, included in the ceiling proceedings, direction was issued to the District Registrar, the Tahsildars and the concerned Village Officers to prevent the transaction of the land involved in the TLB case.

It is further contended that the ceiling proceedings have been initiated as TLB(K) 3/90 as there is excess land in possession of the Amalgamated Malabar Estate Pvt. Ltd. The company sold out the land included in the TLB case and, therefore, taken steps to stop further alienation of the land. The company alienated the property included in the ceiling proceedings and sold out 100 acres of land. The transaction itself is in violation and, therefore, illegal, improper and invalid.

It is further contended that an extent of 100 Acres of land in R.S No.1/1 was exempted from the ceiling since it was observed as private forest. The company filed OA No.1/74 before the Forest Tribunal and the result was favourable to the company. The decree in MFA No.362/1972 filed against the same was also favourable to the company. The land exempted by the Board was alienated by the company to escape from the ceiling proceedings. Therefore, notice was issued to the purchasers also.

It is further stated that even though the notice to the petitioner was set aside, the proceedings initiated against the company is still pending. Hence, the land in possession of the company is subject to the ceiling proceedings. As the company alienated the property by selling, the possession would be subject to the decision of the Taluk Land Board. It is further contended that Ext.P5 circular was issued by the Government to protect the ceiling land from further transaction and, therefore, it was directed to take precautions.

It is further contended that possession of the land which had been alienated by the company is subject to the decision of the ceiling case against Amalgamated Malabar Estate Pvt. Ltd. in TLB(K) 3/90 which is pending. Ext.P8 order was issued for not alienating the land included in the ceiling proceedings and Ext.P6 order was issued to protect the alienation of the land involved in the ceiling proceedings. The issue of Exts.P5 and P6 was to protect the ceiling land from further alienation. Therefore, they prayed for a dismissal of the writ petition.

3. The petitioner has filed a reply affidavit.

4. Arguments have been heard.

5. The learned counsel for the petitioner would submit that though it was contended by the State that proceedings are pending, the number of the proceedings has not been stated. So long as the land stands in the name of the petitioner, there is no harm in collecting the basis tax from the petitioner by the State.

Therefore, the writ petition is disposed of directing the second respondent to accept the basic tax and to issue appropriate certificates applied for in respect of the properties owned by the petitioner. However, it is made clear that it shall be subject to any decision that may be taken by the Taluk Land Board in land ceiling cases.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

krj

//true copy//

P.A to Judge