

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 9136 of 2009 (J)

PETITIONER(S):

**PADMINI GOPINATH, W/O. GOPINATHA PANICKER,
SANTHI NIKETHAN, CMC 5,
CHERTHALA, ALAPPUZHA.**

**BY ADVS.SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
SECRETARY, REVENUE DEPARTMENT,
GOVT. SECRETARIAT, TRIVANDRUM.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, ALAPPUZHA.**
- 3. THE TAHSILDAR,
TALUK OFFICE, CHERTHALA.**
- 4. THE VILLAGE OFFICER,
KOKKOTHAMANGALAM, CHERTHALA.**

BY GOVERNMENT PLEADER SRI.S.JAMAL

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE COMMUNICATION OF THE TAHASILDAR, DT.7/12/97**
- P2: COPY OF THE PROCEEDINGS DATED 25/6/99 OF THE DISTRICT COLLECTOR**
- P3: COPY OF THE DEMAND NOTICE DT.192/2001**
- P4: COPY OF THE REPRESENTATION DT.27/2/2001**
- P5: COPY OF THE REMITTANCE RECEIPT DT.26/11/98**
- P6: COPY OF THE JUDGMENT IN OP.8366/02 DT.10/10/2006**
- P7: COPY OF THE ORDER OF DISTRICT COLLECTOR DATED 5/9/2008**
- P8: COPY OF THE MAHAZER AND REPORT DT.6/1/2003.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K. Vinod Chandran, J

W.P.(C).No.9136 of 2009-J

Dated this the 16th day of July, 2015

JUDGMENT

The petitioner challenges Exhibit P7 order of the District Collector, issued pursuant to Exhibit P6 judgment. Exhibit P7 confirmed the determination of the Kuthakapattam lease rent levied on the husband of the petitioner. Admittedly the petitioner's husband was leased out Kuthakapattam land, admeasuring 8.5 ares in survey No.200/15 of Kokkothamangalam Village. The said land is also lying contiguous to the land owned and occupied by the petitioner's husband. The lease rent fixed was Rs.32/- and the same was being regularly paid by the petitioner's husband.

2. However, a revision of lease rent is said to have been effected by Exhibit P2, on the basis of which, from 1995-96 onwards the lease rent was claimed at the rate of Rs.8,500/-. A total of Rs.51,000/- was sought to be recovered by Exhibit P3 revenue recovery notice. The petitioner's husband had come before this Court in O.P.No.8366 of 2002,

in which there was a direction to reconsider the issue. The petitioner's husband in the said writ petition and the petitioner in this writ petition have raised the very same contention that there could be no retrospective revision of rent. The District Collector passed Exhibit P7 order, affirming the revision and also finding that the land had subsequently been surrendered to the Government.

3. A reading of Exhibit P7 would indicate that the revision of rent was on a determination of lease rent as per the Government Order of 1995. The revision occurred on the basis of G.O.(P) No.566/95/RD dated 13.11.1995. The revision, hence, was not retrospective and was prospective to the aforesaid Government Order. The petitioner's husband continued to remit Rs.32/-. It is also indicated in Exhibit P7 that for the year 1999-2000 and 2000-2001, the petitioner's husband had paid the rent at the rate of Rs.8,500/- for each year. Though a retrospective revision would not be possible, here there is no such retrospective revision. The revision was made in the year 1995 and the same is claimed in Exhibit P3, only prospectively. A determination was made and the demand was

raised later, but within the period of limitation, for the earlier years also. The ground raised on retrospectivity, hence fails. In such circumstance, the challenge against Exhibit P7 cannot be sustained.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]