

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

WP(C).NO. 11574 OF 2012 (V)

PETITIONER:

KUNHIKOYA, AGED 57 YEARS,
S/O.MUHAMMED HAJI, KOLLANTHODIKA HOUSE, NELLIKUTHU,
PAYYANAD, MANJERI, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SMT.SMITHA BABU

RESPONDENT(S) :

1. THE DISTRICT COLLECTOR,
MALAPPURAM, PIN-676505.
2. THE VILLAGE OFFICER,
MANJERI VILLAGE, MALAPPURAM DISTRICT, PIN-676121.

BY GOVERNMENT PLEADER, SRI. E.M. ABDUL KHADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 TRUE COPY OF THE ASSIGNMENT DEED NO.7012/2004 DATED
 17/11/2004 OF S.R.O., MANJERI.
- EXT.P2 TRUE COPY OF THE ORDER ISSUED BY THE FIRST RESPONDENT
 DATED 12/3/2005 AS NO.B7-41588/04.
- EXT.P3 TRUE COPY OF THE STOP MEMO ISSUED BY THE 2ND RESPONDENT
 DATED 27/4/2012 AS NO.293/11.
- EXT.P4 TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE
 COURT IN W.P.(C) NO. 29467/2006 DATED 9/11/2006.
- EXT.P5 TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE
 COURT IN W.P.(C) NO.23435/2008 DATED 5/8/2008.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

K. HARILAL, J.

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W.P. (C) No.11574 of 2012

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Dated this the 21st day of December, 2015

J U D G M E N T

The petitioner and another had purchased 40 cents of property vide Ext.P1 assignment deed. The said property was owned and possessed by one 'Nafeesa Aboobacker' and the same is situated in Manjeri Town on the side of a bye-pass road. Unfortunately, the property is included in the revenue records, as paddy land though no paddy cultivation is being made in the said property since last more than 40 years. While the former owner, Nafeesa Aboobacker, was in possession of the said property, she had applied for exemption under the Kerala Land Utilisation Order, 1967 (hereinafter referred to as 'the KLU Order') for conversion of

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the said property and the 1st respondent passed Ext.P2 order, permitting her to convert the property subject to conditions. According to the petitioner, being the successor in possession of the said property, he has the right to continue the conversion under Ext.P2 order passed by the 1st respondent. Even though, the petitioner has already reclaimed the said property to a considerable extent under Ext.P2, he wants to level up the said property by unloading red earth in the property. While unloading red earth, the 2nd respondent had issued Ext.P3 Stop Memo to the petitioner, stating that as per village records, the property in question is shown as paddy land. According to the petitioner, Ext.P3 Stop Memo issued is in violation of Ext.P2 permission, granted to the predecessor in interest of the property to convert the said property in

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compliance with the conditions in Ext.P2. Therefore, Ext.P3 is liable to be quashed in the light of Ext.P2.

2. Heard the learned counsel for the petitioner and the learned counsel advanced arguments in extenso to challenge Ext.P3 in this Writ Petition.

3. Per contra, the learned Government Pleader advanced arguments to justify Ext.P3 Stop Memo issued by the 2nd respondent.

4. Going by Exts.P2 and P3, indisputably, the survey number shows that the property covered by Exts.P2 and P3 are one and the same. Ext.P1 sale deed shows that the said property was purchased from one 'Nafeesa Aboobacker', the executor of Ext.P1 and Ext.P2 order shows that before selling of the said property, she had obtained the said order under

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the KLU Order to convert the said paddy land subject to conditions. In Ext.P3, the 2nd respondent has no case that the petitioner has violated the conditions in Ext.P2 order. Moreover, Ext.P3 shows that the said order was issued in ignorance of Ext.P2 order.

5. In the above view of the matter, Ext.P3 Stop Memo will stand set aside. The petitioner is allowed to convert the said property strictly in compliance with the conditions in Ext.P2 order.

This Writ Petition is allowed.

Sd/-

**K. HARILAL,
JUDGE**

DST

//True copy//

P.A. To Judge