IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 8864 of 2014 (G)

PETITIONERS:
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1. MUHAMMED SALIK
S/O.MUHAMMED HAJI, PUTHENPURAYIL HOUSE, ANDONA
THAMARASSERY.P.O., KOZHIKODE-673 573.

2. NAZRIN
W/O.MUHAMMED SALIK, PUTHENPURAYIL HOUSE, ANDONA
THAMARASSERY.P.O., KOZHIKODE-673 573.

3. SHAHARABHNU
W/O.LATE SULPHIKAR, PUTHENPURAYIL HOUSE, ANDONA
THAMARASSERY.P.O., KOZHIKODE-673 573.

4. ABDUL MANAF
S/O.N.R.ABDU RAHMAN HAJI, NEROTHU HOUSE
VIA KANTHAPURAM, MANGAD.P.O., KOZHIKODE DISTRICT-673126.

5. NADIRA
W/O.N.R.MANAF, NEROTHU HOUSE, VIA KANTHAPURAM
MANGAD.P.O., KOZHIKODE-673126.

BY ADV. SRI.BASANT BALAJI

RESPONDENTS:
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1. THE DISTRICT COLLECTOR
CIVIL STATION, VYNAD-671 001.

2. VILLAGE OFFICER
THIRUNELLI VILLAGE, THIRUNELLI.P.O., VYNAD-671 012.

R1, R2 BY ADV. GOVERNMENT PLEADER SRI.ABHIJIT LESLEE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 8864 of 2014 (G)

APPENDIX

PETITIONERS' EXHIBITS

P1- TRUE COPY OF THE SALE DEED NO.2032/05 DTD. 11.7.2005 OF SRO MANANTHAVADI.

P2- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 4.0745 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2012-2013.

P2(a)- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 4.0745 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2013-2014.

P3- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE 1ST PETITIONER IN RESPECT OF 4.0745 HECTORS OF PROPERTY IN SY NO.88/4A OF THIRUNELLI VILLAGE.

P4- TRUE COPY OF THE SALE DEED NO.2195/2005 DTD. 8.8.2005 OF SRO MANANTHAVADI.

P5- TRUE COPY OF THE SALE DEED NO.2034/2005 DTD. 11.7.2005 OF SRO MANANTHAVADI.

P6- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 3.0069 & 0.3238 HECTORS OF PROPERTY IN SY NO.88/1B & 88/4A FOR THE PERIOD 2012-2013.

P6(a)- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 3.0069 & 0.3238 HECTORS OF PROPERTY IN SY NO.88/1B & 88/4A FOR THE PERIOD 2013-2014.

P7- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE 2ND PETITIONER IN RESPECT OF 3.0069 AND 0.3238 HECTORS OF PROPERTY IN SY NO.88/1B AND 88/4A OF THIRUNELLI VILLAGE.

P8- TRUE COPY OF THE SALE DEED NO.2194/05 DTD. 8.8.2005 OF SRO MANANTHAVADI.

P9- TRUE COPY OF THE TAX RCEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B FOR THE PERIOD 2012-2013.

P9(a)- TRUE COPY OF THE TAX RCEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B FOR THE PERIOD 2013-2014.

P10- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE 3RD PETITIONER IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B OF THIRUNELLI VILLAGE.

P11- TRUE COPY OF THE SALE DEED NO.2033/05 DTD 11.7.2005 OF SRO MANANTHAVADI.

P12- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2012-2013.

P12(a)- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2013-2014.

P13- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE HUSBAND OF THE 3RD PETITIONER IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A OF THIRUNELLI VILLAGE.

P14- TRUE COPY OF THE SALE DEED NO.2031/05 DTD 11/7/05 OF SRO MANANTHAVADI.

P15- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2012-2013.

P15(a)- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A FOR THE PERIOD 2013-2014.

P16- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE 4TH PETITIONER IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/4A OF THIRUNELLI VILLAGE.

P17- TRUE COPY OF THE SALE DEED NO.2193/05 DTD 8.8.2005 OF SRO MANANTHAVADI.

P18- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B FOR THE PERIOD 2012-2013.

P18(a)- TRUE COPY OF THE TAX RECEIPT IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B FOR THE PERIOD 2013-2014.

P19- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO THE 5TH PETITIONER IN RESPECT OF 6.0705 HECTORS OF PROPERTY IN SY NO.88/1B OF THIRUNELLI VILLAGE.

P20- TRUE COPY OF THE COMMUNICATION SENT BY THE 2ND RESPONDENT TO ONE OF THE PETITIONER DTD 21.02.2014.

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BABU MATHEW P. JOSEPH, J.

W.P.(C) No.8864 of 2014

Dated this the 26th day of March, 2015

JUDGMENT

This writ petition has been filed for a direction to the respondents to issue possession certificate to the petitioners in respect of their properties and for quashing Ext.P20 letter issued by the second respondent.

2. Heard the learned counsel appearing for the petitioners and the learned Government Pleader appearing for the respondents.

3. The second respondent has filed a counter affidavit in which it is admitted that the petitioners herein purchased a total extent of about 31.3634 hectares of land comprised in various survey numbers in Thirunelli village by separate documents in the year 2005. It is also admitted in the counter affidavit that the petitioners are paying Land Tax for the extent of land they own and occupy.

4. The properties in question belonged to Smt.Lakshmi.

In the sale documents evidenced by Exts.P1, P4, P5, P8, P9, P14 and P17, it is stated that the properties belonging to the petitioners covered by these documents were exempted from land ceiling proceedings. The reason stated in the counter affidavit for not issuing the possession certificate to the petitioners is that C.R.P. No.2 of 2009 was filed by the State Land Board against the proceedings of the Taluk Land Board, Mananthavady, to reopen the ceiling case against Smt.Lakshmi, the former owner of the properties.

5. It is not a disputed fact that the petitioners were provided with possession certificates, all along after they have purchased by the properties from Smt.Lakshmi. Exts.P3, P7, P10, P13, P16 and P19 are the possession certificates so issued to the petitioners by the second respondent Village Officer. This Court has passed a detailed interim order in this case on 21-08-2014 wherein the second respondent was directed to consider the applications of the petitioners for possession certificates and issue necessary possession certificates to them within the period stipulated

therein. Of course, such a direction was issued without prejudice to the action contemplated in Ext.P20 and also made clear that the interim order would be subject to further orders of this Court in the writ petition. It is further clarified in the order that after getting necessary clarifications from the Taluk Land Board, if any modification of the order was required, the second respondent would be at liberty to submit appropriate application in that regard before this Court in the writ petition.

6. Learned counsel for the petitioners submits that on the basis of the directions issued by this Court in the interim order, the second respondent has issued possession certificates to the petitioners. But, it is noted in the certificates that the certificates so issued would be subject to the result of this writ petition. Since such an endorsement is made by the Village Officer in the possession certificates, the petitioners are virtually prevented from availing of agricultural loans, for that purpose only they have approached the second respondent for issuing possession

certificates. The petitioners have approached their bank for availing of agricultural loans by producing the possession certificates so issued by the second respondent. But, the bank authorities expressed their inability to grant loans to the petitioners only for the reason that such endorsements appear on the possession certificates.

7. The properties involved in the case have been purchased by the petitioners from Smt.Lakshmi. Land ceiling proceedings were pending against her. It is stated in the Sale Deeds that the properties in question were exempted from land ceiling proceedings. The respondents contend that certain proceedings are pending in order to reopen the ceiling case against Smt.Lakshmi. If the properties in question are to be proceeded against under the Land Reforms Act, the respondents can do that. But, for that reason, for the present, the petitioners cannot be deprived of their right to avail of loans from their bank for the purpose of agricultural operations. Such agricultural operations being carried on by them in the lands in question after availing of

loans from their bank will not, in any way, stand in the way of the respondents from legally proceeding against Smt.Lakshmi in respect of these properties. But, that cannot stand in the way of granting proper possession certificates to the petitioners. Therefore, the second respondent is liable to issue revised possession certificates to the petitioners without making any such endorsements in respect of the case. There is no dispute with regard to the fact that the petitioners continue in possession of these properties ever since they purchased them. All along the petitioners approached the Village Officer only for getting documents certifying that fact. A true fact so certified will not stand in the way of any adjudication in respect of the lands in question before the Land Board or any other forum. In that view of the matter, the petitioners are entitled to revised possession certificates without making any such endorsements as made by the second respondent in the possession certificates issued by him earlier on the basis of the direction issued by this Court in the interim order dated

21-08-2014.

In the result, this writ petition is disposed of with a direction to the second respondent to issue revised possession certificates to the petitioners without making any such endorsements as made in the certificates earlier issued to them. This shall be done by the second respondent within a period of seven days from the date of receipt of a copy of this judgment. It is made clear that the receipt of such possession certificates issued by the second respondent as directed by this Court will not give any advantage either to the petitioners or to Smt.Lakshmi in respect of the land ceiling proceedings taken in respect of the properties in question.

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

kns/-

//TRUE COPY//

P.A. TO JUDGE