

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF NOVEMBER 2015/18TH KARTHIKA, 1937

WP(C).No. 14284 of 2008 (A)
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PETITIONER:
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**HENDRY,
S/O. MANIKYA MANIYAKARAN, PALLIKADATHANUR,
PAZHANIYURPALAYAM, KOZHINJANPARA, PALAKKAD.**

BY ADV. SRI.ABRAHAM JOHN

RESPONDENT(S):
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- 1. TALUK LAND BOARD,
CHITTOOR.**
- 2. TAHSILDAR, CHITTOOR.**
- 3. VILLAGE OFFICER,
KOZHINJANPARA, CHITTOOR.**
- 4. STATE OF KERALA REP. CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM.**

R,R1-4 BY GOVERNMENT PLEADER SRI. REJI JOSEPH

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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WP(C).No. 14284 of 2008 (A)
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APPENDIX
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PETITIONER(S)' EXHIBITS:
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EXHIBIT P1: A TRUE COPY OF THE ORDER IN C.C.NO. 1760/1973 DATED 31-1-1978.

EXHIBIT P2: THE TRUE COPY OF THE SURRENDER NOTICE DATED 31-1-1978.

**EXHIBIT P3: A TRUE COPY OF THE EXTRACT OF ORDER UNDER SECTION 85 (5) (c)
IN FORM NO.V.**

EXHIBIT P4: A TRUE COPY OF THE APPLICATION DATED 2-4-2007.

RESPONDENT(S)' EXHIBITS: NIL
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/TRUE COPY/

P.A. TO JUDGE

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SHAJI P. CHALY, J.

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W.P.C.No. 14284 of 2008

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Dated this the 9th day of November, 2015.

JUDGMENT

This writ petition is filed by the petitioner seeking to issue a direction to the respondents to measure out the property which the petitioner is entitled to have and hold in his possession and separate the same from the excess land to be surrendered as per Ext. P1 order passed by the Taluk Land Board, Chittoor dated 31/1/1978 and for other related reliefs.

2. Brief facts for the disposal of the writ petition are as follows:

Petitioner is the declarant in C.C.No. 1760/1973 on the files of the 1st respondent Taluk Land Board, Chittoor. Petitioner had a total extent of 18.36 Acres of land in his holding. As per the above proceedings, petitioner was directed by the 1st respondent to surrender 11.94 Acres of land which was over and above the permissible sealing limit which the petitioner is entitled to have as per law. Even though the petitioner has

challenged the proceedings of the 1st respondent, same did not yield any result and the petitioner was accordingly directed to surrender the land as ordered by the 1st respondent as per Ext. P1. Thereafter, the 1st respondent directed the petitioner to surrender excess land as per Ext. P2.

3. The grievance voiced by the petitioner in this writ petition is that, so far as the excess land found out in Ext. P1 was concerned, there were several tenants occupying the said land and since there is no demarcation between the excess land and the property held by the petitioner legally, innumerable difficulties and inconveniences are caused.

4. Therefore, he has filed Ext. P4 application before the 3rd respondent seeking to demarcate the land in his possession from the excess land found out as per Ext. P1 order of the 1st respondent.

5. 1st respondent has filed a counter affidavit justifying the order passed by the 1st respondent and contending that the extent of land ordered to be surrendered was excess in accordance with the provisions of the Kerala Land Reforms Act and therefore the petitioner has no manner of claim or concern over the said land.

6. Heard the learned counsel for the petitioner and the learned Government Pleader.

7. Having considered the rival contentions put forth by the learned counsels and on perusal of the records, the sole reliefs sought for by the petitioner is to demarcate the land in his possession with the land ordered to be surrendered as per Ext. P1 order passed by the 1st respondent. It is also contended by the learned counsel that, the excess land is in occupation of various tenants and since the land is not demarcated with the land in possession of the petitioner on and of there are attempts to encroach into the properties of the petitioner and therefore it is only just and reasonable that, the 3rd respondent demarcates the property as requested in Ext. P4.

8. I find force in that contention advanced by the learned counsel for the petitioner. Ext. P4 application is pending before the 3rd respondent on and with effect from 2.4.2007 and there is every likelihood that the same being misplaced. Therefore, the petitioner can be directed to produce a copy of the writ petition along with the documents before the 3rd respondent within a time frame so as to enable the 3rd respondent to proceed to demarcate the land in accordance with law. Liberty is also granted to the petitioner to file any fresh suitable application seeking to ventilate the grievances voiced by him in Ext. P4. Learned Government Pleader submitted that if such a direction is issued the 3rd respondent will take suitable

action in accordance with law.

9. Therefore, there will be a direction to the 3rd respondent to consider Ext. P4 application for demarcation of the property held by the petitioner with the excess land found out in Ext. P1 order. The petitioner is also at liberty to file any fresh application seeking the said relief. Petitioner is also directed to produce a copy of the writ petition along with the appended exhibits before the 3rd respondent within a period of three weeks from the date of receipt of a copy of this judgment. The 3rd respondent shall measure out the properties taking into account the stipulations contained under Ext. P1 order with notice to the petitioner and demarcate the property in accordance with law, if necessary after issuing notice to any affected parties also. The whole exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

Sd/-
SHAJI P. CHALY,
JUDGE.

/True copy/

P.A. to Judge

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