

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WP(C).No. 28746 of 2003 (V)

PETITIONER:

**M/S.MATHER & COMPANY PVT.LTD.,
REPRESENTED BY ITS MANAGER, ERNAKULAM.**

BY ADV. SRI.PRAVEEN K. JOY

RESPONDENT(S):

- 1. TALUK LAND BOARD, ALUVA.**
- 2. TAHSILDAR, ALUVA.**
- 3. VILLAGE OFFICER, CHOWARA VILLAGE.**
- 4. SUHRABI, W/O.LATE K.C.M.MATHER,
NOOR MAHAL, NEAR MAS HOTEL,
ERNAKULAM, COCHIN - 18.**
- 5. K.M.AYSHA, D/O.LATE K.C.M.MATHER,
NOOR MAHAL, NEAR MAS HOTEL,
ERNAKULAM, COCHIN - 18.**
- 6. K.M.ABDUL RAHMAN, S/O.LATE K.C.M.MATHER,
NOOR MAHAL, NEAR MAS HOTEL, ERNAKULAM,
COCHIN - 18.**
- 7. K.M.IBRAHIMKUTTY, S/O.LATE K.C.M.MATHER,
NOOR MAHAL, NEAR MAS HOTEL, ERNAKULAM,
COCHIN - 18.**
- 8. K.M.NOORUDDIN, S/O.LATE K.C.M.MATHER,
NOOR MAHAL, NEAR MAS HOTEL, ERNAKULAM,
COCHIN - 18.**
- 9. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.**
- 10. DISTRICT COLLECTOR, ERNAKULAM.**

**R1 TO R3, R9 & R10 BY GOVT. PLEADER SMT.C.K.SHERIN
R4 TO R8 BY ADV. SRI.PAUL ABRAHAM VAKKANAL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF THE CERTIFICATE OF INCORPORATION OF THE PETITIONER COMPANY DATED 7TH MEDAM 1119.
- EXT. P2 : TRUE COPY OF THE SALE DEED DOCUMENT NO.196 OF 1121 DATED 21 THULAM 1121.
- EXT. P3 : TRUE COPY OF THE SALE DEED DOCUMENT NO.684 OF 1959 DATED 14.12.1959.
- EXT. P4 : TRUE COPY OF THE SALE DEED DOCUMENT NO.863 OF 1964 DATED 29.7.1964.
- EXT. P5 : TRUE COPY OF THE SALE DEED DOCUMENT NO.1229 OF 1993 DATED 10.5.1993.
- EXT. P6 : TRUE COPY OF THE SALE DEED DOCUMENT NO.1230 OF 1993 DATED 10.5.1993.
- EXT. P7 : TRUE COPY OF THE SALE DEED DOCUMENT NO.620 OF 1972 DATED 13.5.1972.
- EXT. P8 : TRUE COPY OF THE SKETCH SHOWING THE LIE OF THE SUBJECT MATTER PROPERTY DATED NIL.
- EXT. P8(A) : TRUE COPY OF THE SKETCH SHOWING THE LIE OF THE SUBJECT MATTER PROPERTY DATED NIL.
- EXT. P9 : TRUE COPY OF THE DRAFT STATEMENT ISSUED BY THE 1ST RESPONDENT DATED 3.2.1979.
- EXT. P10 : TRUE COPY OF THE OBJECTION FILED BY SRI.K.C.M.MATHER BEFORE THE 1ST RESPONDENT DATED 5.4.1979.
- EXT. P11 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 4.10.1979.
- EXT. P12 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN CRP 1098/1980 DATED 10.11.1981.
- EXT. P13 : TRUE COPY OF THE REVISED DRAFT STATEMENT ISSUED BY THE 1ST RESPONDENT.
- EXT. P14 : TRUE COPY OF THE OBJECTION FILED BY THE DECLARANT BEFORE THE 1ST RESPONDENT DATED 24.2.1983.
- EXT. P15 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 23.8.1984.
- EXT. P16 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN CRP 2915/1984 DATED 10.12.1987.

WP(C).No. 28746 of 2003 (V)

- EXT. P17 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT
DATED 30.12.1995.
- EXT. P18 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
CRP 2736/1996.
- EXT. P19 : TRUE COPY OF THE OPTION STATEMENT FILED BY RESPONDENTS 4
TO 8 BEFORE THE 1ST RESPONDENT DATED 14.7.1997.
- EXT. P20 : TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT
DATED 20.9.1997.
- EXT. P21 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN
CRP 2129/1997 DATED 11.9.2002.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.28746 of 2003

Dated this the 3rd day of November, 2015

JUDGMENT

The issue in this writ petition falls narrow compass of an identity of the property being proceeded by the Taluk Land Board in a ceiling proceedings.

2. There cannot be any dispute that 8.22.500 acres of land belongs to the petitioner company is excluded from the ceiling from the account of the declarant in the proceedings under S.M.No.2 of 1978 initiated against individuals including promoters of the company. This attained a finality.

3. In the proceedings, the declarant therein has claimed that 15.65 acres of land belongs to company. The declarant failed to establish that the entire 15.65 acres of land belongs to the company. Therefore, it is apparent that the Taluk Land Board has now proceeded against the property other than 8.22.500 acres of land.

4. The petitioner has approached this Court with the following reliefs:

- a. Issue an appropriate writ or order declaring that the property of the petitioner company i.e., 5.16.250 acres of land comprised in Sy.Nos.339, 332(RS.No.255/1), 330/1/2 and 333/6 of Chowara Village are not liable to be proceeded against or taken possession of in pursuance to the proceedings in SM.2 of 1978 on the file of the first respondent,
- b. Issue a writ of mandamus or other appropriate writ or order directing respondents 2, 3 and 10 not to take possession of the petitioner's property i.e., 5.16.250 acres of land comprised in Sy.Nos.339, 332 (RS.No.255/1), 330/1/2 and 333/6 of Chowara Village treating the same as part of the excess land held by respondents 4 to 8,
- c. grant such other orders as may be deemed necessary in the facts and circumstances of the case and in the interests of justice.

5. This Court is of the view that, essentially, the question in this matter is regarding identity of the property. If this property is identifiable as an excluded land and forming part of 8.22.500 acres of land, necessarily, the respondents cannot proceed against the property.

6. On the other hand, if do not form part of 8.22.500 acres of land, notwithstanding, non-production of any materials by the declarant in the proceedings, the petitioner should be given an opportunity to claim their title and right in respect of the property.

Therefore, following directions are passed:

i. The Taluk Land Board shall verify the land in this matter is forming part of 8.22.500 acres of land.

ii. If it forms part of the above land, necessarily, all further proceedings against the property shall be dropped.

iii. If the land in question referred as above do not form part of 8.22.500 acres of land, the petitioner should be given an opportunity to establish title to the property.

iv. Appropriate orders in this regard shall be passed after hearing the petitioner within three months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

In