

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

WP(C).No. 17815 of 2010 (B)

PETITIONER:

**KURIAN MATHEW,
KARUNATTU HOUSE, KURICHY, NEELAMPEROOR P.O.**

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS:

- 1. STATE OF KERALA,
REP. BY SECRETARY, DEPARTMENT OF REVENUE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. TALUK LAND BOARD,
39, CHANGANACHERRY, O/O.THE REVENUE DIVISIONAL OFFICER
KOTTAYAM.**

R1 & 2 BY GOVERNMENT PLEADER SRI. MANOJ P.KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-08-2015,
ALONG WITH WPC. 6794/2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- P1 : TRUE COPY OF THE ORDER DATED 30.04.1976 IN TLB 119/73 OF
TALUK LAND BOARD, CHANGANACHERRY
- P2 : TRUE COPY OF THE NOTICE DATED 29.2.2000 NO.TLB 119/73 ISSUED
TO THE PETITIONER BY THE 2ND RESPONDENT
- P3 : TRUE COPY OF THE PRELIMINARY OBJECTION DATED APRIL 2000
FILED BY PETITIONER BEFORE THE 2ND RESPONDENT
- P4 : TRUE COPY OF THE NOTICE DATED 28.10.2000 ISSUED BY THE 2ND
RESPONDENT
- P5 : TRUE COPY OF THE NOTICE DATED 17.9.2008 ISSUED BY THE 2ND
RESPONDENT
- P6 : TRUE COPY OF THE OBJECTION DATED 23.06.2009 FILED BY THE
PETITIONER
- P7 : TRUE COPY OF THE OBJECTION DATED 24.11.2009 FILED BY
PETITIONER BEFORE THE TALUK LAND BOARD

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

JJJ

K. VINOD CHANDRAN, J.

W.P.(C) No. 17815 of 2010
and
W.P.(C) No. 6794 of 2015

Dated this the 11th day of August, 2015

J U D G M E N T

The petitioner in W.P.(C) No.17815/2010 is aggrieved with the proceedings initiated by the Taluk Land Board, re-opening the ceiling proceedings which were closed by Ext.P1.

2. The petitioner, admittedly, was proceeded with under the Kerala Land Reforms Act, 1963 (for brevity 'Act of 1963') and had filed ceiling return as on 14.12.1972. The Taluk Land Board, as per proceedings dated 30.4.1976, evidenced at Ext.P1, recorded the ceiling returns and found that the petitioner does not have any lands in excess of the ceiling.

3. The petitioner in W.P.(C) No. 6794/2015 purchased 10.50 cents of land from the petitioner in the other writ petition and is aggrieved with the fact that the

encumbrance certificate of the said property records the land ceiling proceedings initiated subsequently by Ext.P2, produced in W.P.(C) No.17815/2010, which, in effect, interdicts the transfer of the property.

4. Considering the contentions in W.P.(C) No.17815/2010, it is to be noticed that the ceiling proceedings were concluded as early as in 1976, by Ext.P1. A review of such proceedings was initiated by Ext.P2 as on 29.2.2000. The specific reference made by the petitioner is to the proviso to Section 85(9A) of the Act of 1963, wherein by an amendment of 1989 specifically, Kerala Land Reforms Amendment Act, 1989, (for brevity 'Amendment Act of 1989') the power to review the proceedings already concluded was given to the Taluk Land Board, which power was available for review on the specific grounds stated in subsection (9A). However, the proviso specifically indicated that such review can be attempted only within three years from the date of coming into force of the Amendment Act of

1989. The proceedings at Ext.P2 was issued in the year 2000.

5. Considering the identical issue, a Full Bench of this Court in **Balan v. State of Kerala - 2006 (4) KLT 229** held that though the proceedings initiated on review need not be concluded within three years, necessarily, as per the proviso, notice has to be issued within the three year period stipulated therein.

6. In such circumstance, W.P.(C) No.17815/2010 has to be allowed. The notices issued at Exts.P2, P4 and P5 are found to be beyond the period of limitation stipulated under the proviso to subsection (9A) of Section 85 of the Act of 1963. No proceedings shall be carried on with respect to the said notices. W.P.(C) No.17815/2010 will stand allowed.

7. W.P.(C) No.6794/2015 is by a bonafide purchaser from the aforesaid landlord, which challenges Ext.P5 produced therein, wherein the Revenue Divisional Officer issued a direction to the District Registrar not to permit

alienation of the petitioner's property for reason of ceiling proceedings pending against the petitioner. In such circumstance, W.P.(C) No.6794/2015 shall stand allowed, setting aside Ext.P5 to the extent there is a restriction on the alienation of the petitioner's 4 Ares 25 square metres (10.50 cents) of property situated in Survey No.274/11 Re-survey No.217/1/9 of Kurichi village in Changanassery Taluk.

Writ petitions are allowed. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE