

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 33626 of 2006 (C)

PETITIONER(S):

1. **GOPALAN S/O.APPUKUTTAN,
RESIDING AT CHERUKUNDIL HOUSE
ARIYOOR KOTTAPPURAM VILLAGE, MUNDAKKAL TALUK
PALAKKAD DISTRICT.**
2. **KUTTAPPAN, S/O.KANDAN,
TEMPALLIL HOUSE, ARIYOOR KOTTAPPURAM VILLAGE
MUNDAKKAL TALUK, PALAKKAD DISTRICT.**

**BY ADVS.SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SRI.M.S.NISHAD**

RESPONDENT(S):

1. **THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.**
2. **THE DEPUTY COLLECTOR (LR) PALAKKAD.**
3. **KUNNATHU MUHAMMED,
S/O.ATHAVU, KULUKKILIYADU, THENGINTHODY P.O.
KOTTAPPURAM.**

**R3 BY ADV. SMT.MINI.V.A.
R BY GOVERNMENT PLEADER ABHIJETT LESSIL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

kkj

WP(C).No. 33626 of 2006 (C)

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF ORDER DATED 04.08.1999 IN C.C.NO.298/73 OF THE
TALUK LAND BOARD, OTTAPALAM**
- EXT.P2: TRUE COPY OF THE JUDGMENT DATED 2403.2004 IN O.P.NO.11557 OF
2003 OF THIS HON'BLE COURT**
- EXT.P3: TRUE COPY OF THE JUDGMENT DTD 09.08.2006 CRP.P.NO.2715/1999
OF THIS HONORABLE COURT**
- EXT.P4: TRUE COPY OF THE NOTICE DATED 04.11.2006 ISSUED BY THE 2ND
RESPONDENT**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

W.P.(C) No.33626 of 2006-

Dated this the 21st day of January, 2015

J U D G M E N T

The petitioners claim that they are cultivating tenants in respect of an item of property. The land originally belonged to one Kunnathu Muhammed, who is the third respondent. Ceiling Case No.278 of 1973 was taken against the said person alleging that he owned lands in excess of the ceiling limit. In the said proceedings to which the petitioners were not parties, the Land Board had ordered the excess land to be surrendered, including those of the petitioners. The petitioners therefore filed Claim Petitions under Section 85(8) of the Kerala Land Reforms Act. The Taluk Land Board rejected their claims as per Exhibit P1. The petitioners challenged Exhibit P1 before this Court. As per Exhibit P3 order, CRP Nos. 2715, 2730 and 2731 of 1999 were allowed, the orders passed by the Land Board were set aside and the matter was remitted back with a

direction to reconsider and pass fresh orders, considering the effect of the Purchase Certificates obtained by the petitioners. Exhibit P3 is dated 09.08.2006. On 04.11.2006, by Exhibit P4 the second respondent has invited applications for assignment of surplus land including those of the petitioners. The petitioners have filed this writ petition challenging Exhibit P4.

2. According to the counsel for the petitioners, the entire matter has been remanded to the Land Board for fresh consideration by this Court as per Exhibit P3. The proceedings are still pending, since no order has been passed finally determining that the lands possessed by them are excess lands available for assignment. Therefore, there is no justification for the issue of Exhibit P4, without waiting for the final orders of the Land Board. I have heard the learned Government Pleader also.

3. Since this Court has directed the Land Board to consider the matter afresh as per Exhibit P3, any

W.P.(C) No.33626 of 2006-

assignment of land treating the same as surplus land could be made only after the matter is finally adjudicated by the Land Board. Such adjudication has admittedly not taken place. Therefore, Exhibit P4 in so far as it relates to the lands of the petitioners, is unsustainable. According to the learned Government Pleader, Exhibit P4 was also subsequently cancelled.

4. In view of the above, it is sufficient that this writ petition is disposed of maintaining the interim order passed by this Court till the matter is finally decided by the land Board.

This writ petition is therefore disposed of directing that the interim order granted in this case shall continue to be in operation until the Land Board finally decides the claims of the petitioners, as directed to be considered by this Court by Exhibit P3 order.

Sd/-
K.SURENDRA MOHAN,
JUDGE

kkj