

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C) .No. 30170 of 2009 (M)

PETITIONER(S) :

P.REHMATH,
W/O.SULAIMAN, CHETTUPOTTA HOUSE, NAMBULLIPURA
MUNDUR PALGHAT.

BY ADVS.SRI.T.M.SUNIL
SMT.S.CHITHRA

RESPONDENT(S) :

1. DISTRICT COLLECTOR, PALGHAT.
2. TALUK LAND BOARD, PALGHAT.
3. CHAIRMAN(TALUK LAND BOARD) &
REVENUE DIVISIONAL OFFICER, PALGHAT.
4. ADDITIONAL TASILDAR(LAND REFORMS)
PALGHAT.

BY SR.GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) .No. 30170 of 2009

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF VERUMPATTOM CHIT OF 1937.

EXHIBIT P2: COPY OF PARTITION DEED DATED 11.12.2000.

EXHIBIT P3: COPY OF JUDGMENT IN C.R.P.NO.283/2000 DATED 25.3.2008.

EXHIBIT P4: COPY OF ORDER IN L.B.NO.435/1973 DATED 25.11.1986.

EXHIBIT P5: COPY OF CLAIM ETITION & STAY PETITION DATED 22.1.2002.

/TRUE COPY/

PS TO JUDGE

vgs

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 30170 of 2009

Dated this the 18th day of September, 2015

J U D G M E N T

The case of the petitioner is that the petitioner, along with her mother and sisters, is in possession of an extent of land comprised in Sy.No.49/3 & 49/3A of Mundur I Village of Palakkad Taluk. According to her, the family was in possession of the said lands for several decades and these lands not being in the possession of the landlords for several decades even before the enactment of the Kerala Land Reforms Act, ought not have been included in the draft statement. However, the respondents, ignoring the provisions of the Kerala Land Reforms Act, included the land held by the petitioner in the draft statement in LB Nos.435 & 629/1973 without notice to the petitioner; it is alleged. The petitioner further alleges that no enquiry as contemplated under the Kerala Land Reforms Act has been conducted. According to the petitioner, she is given to understand that the said land has been included in some other ceiling case also.

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2. Arguments have been heard.

3. The learned counsel for the petitioner relied on proviso to Section 85(1) of the KLR Act, which states that where the land is held by the cultivating tenant or 'kudikidappukaran' and is liable to be purchased, that extent of land shall not be taken into account for calculating the extent of land to be surrendered by the declarant. Therefore, according to the learned counsel for the petitioner, the land held by the petitioner and her mother and siblings ought not have been included in the draft statement; and the inclusion of the land in the draft statement in LB No.435 & 629/1973 is totally illegal and against the provisions of the Kerala Land Reforms Act.

4. Section 85(5) of the KLR Act casts burden on the Taluk Board to verify and ascertain whether the statement of declarant is correct in respect of the land held or owned by him. It appears from record that no verification as above has been done in the appropriate cases. Otherwise, the Taluk Land Board would have definitely come to a conclusion as to who was in possession of the property in

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Sy.Nos.49/3 & 49/3A. Enquiry under Rules 139 & 140 of the KLR Tenancy Rules, 1970 contemplate issue of notice to persons and examination of parties and witnesses. Apparently, no such enquiry has been conducted.

Therefore, this Court is of the view that Ext.P4 has to go.

In the result, the writ petition is disposed of as follows;

- Ext.P4 is quashed.
- Respondents are directed to afford the petitioner an opportunity of being heard before passing final orders in LB Nos.435 & 629/1973.
- If final orders have already been passed in LB Nos.435 & 629/1973 by this time without hearing the petitioner, it is open to the petitioner to challenge the final orders on that ground.
- Needless to say, as Ext.P4 is quashed, other consequential orders passed without notice to the petitioner also shall stand quashed.

Sd/-

A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-