

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C) .No. 30981 of 2008 (L)

PETITIONER(S) :

1. GEORGE KURIAN,
JAYAMATHA BUILDINGS,
VITHURA P.O., THIRUVANANTHAPURAM.
2. GEORGE VARGHESE,
JAYAMATHA BUILDINGS, VITHURA P.O.,
THIRUVANANTHAPURAM.
3. ELIYAMMA GEORGE,
KARIMBIL HOUSE, MARUTHAMALA, VITHURA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.R.SUDHIR.

RESPONDENT(S) :

1. STATE OF KERALA,
REP. BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.
3. TAHSILDAR,
NEDUMANGAD.
4. VILLAGE OFFICER,
THENNUR VILLAGRE.

BY GOVERNMENT PLEADER SRI. MANOJ P. KUNJACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : TRUE COPY OF THE SALE DEED NO.342/1981 DATED 29/01/1981.
- EXT. P2 : TRUE COPY OF THE PROCEEDINGS DATED 20/09/2002 OF THE TALUK LAND BOARD, NEDUMANGAD.
- EXT. P3 : TRUE COPY OF THE BASIC TAX RECEIPT NO.1384087 DATED 23/12/2004.
- EXT. P4 (A) : TRUE COPY OF THE BASIC TAX RECEIPT NO.0555021 DATED 07/01/2006.
- EXT. P4 (B) : TRUE COPY OF THE BASIC TAX RECEIPT NO.0588795 DATED 30/03/2006.
- EXT. P4 (C) : TRUE COPY OF THE BASIC TAX RECEIPT NO.0588794 DATED 30/03/2006.
- EXT. P5 : TRUE COPY OF THE BASIC TAX RECEIPT NO.0833595 DATED 04/04/2007.
- EXT. P6 : TRUE COPY OF THE EXTRACT OF THE NEWS ITEM PUBLISHED IN MATHRUBHOOMI DAILY DATED 14/10/2008.

RESPONDENT(S) ' EXHIBITS :

- EXT. R3 (A) : TRUE COPY OF NOTICE DATED 14/06/2007 ISSUED TO THE 3RD PETITIONER.
- EXT. R3 (B) : TRUE COPY OF NOTICE DATED 28/06/2007 ISSUED TO THE 2ND PETITIONER.
- EXT. R3 (C) : TRUE COPY OF NOTICE DATED 30/06/2007 ISSUED TO THE 3RD PETITIONER.
- EXT. R3 (D) : TRUE COPY OF THE ACKNOWLEDGMENT OF VILLAGE OFFICER, THENNOOR.
- EXT. R3 (E) : TRUE COPY OF THE ACKNOWLEDGMENT OF VILLAGE OFFICER, VITHURA.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P(C). No.30981 of 2008

Dated this the 28th day of July, 2015.

JUDGMENT

The petitioners are aggrieved with the fact that, without assuming possession of the properties directed to be surrendered as per Ext.P2, and without even a notice the Government is attempting to distribute the land in possession of the petitioners to landless persons. The petitioners were appraised of such decision of the Government by Ext.P6 paper publication, upon which the petitioners approached this Court and also obtained a stay of assignment.

2. A Counter Affidavit has been filed by the State, in which it has been stated that the properties were assumed possession by the Government in the year 1982. However it is to be noticed that the order at Ext.P2 itself is dated 2002. In fact, the proceeding before the Taluk Land Board, ended in ceiling area being determined, with an earlier order. This was challenged by

the State before this Court in a C.R.P., which remanded the matter. Pursuant to that remand Ext.P2 order was passed in 2002. Though it is stated in the Counter Affidavit that, proceedings were taken for assumption of such properties determined as excess of ceiling area, the application filed for vacating the stay specifically mentioned the proceedings to be under the Kerala Land Conservancy Act, 1957 and not under the Kerala Land Reforms Act, 1963.

In such circumstances, it is only proper that the Government take appropriate proceedings under the KLR Act to effectuate surrender as per Ext.P2 order. Reserving such liberty, the writ petition would stand disposed of, directing that the petitioners shall not be divested of such property unless and until appropriate proceedings are taken under the KLR Act. It is also directed that the petitioners shall co-operate in the event of such proceedings, being initiated. No costs.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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