

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

WP(C).No. 37734 of 2015 (N)

PETITIONER :

**ABDULLA, AGED 52 YEARS,
S/O.LAINAKALILLATH ABOOBACKER, RESIDING AT MADIKAI,
MADIKAI VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENT(S):

- 1. THE TALUK LAND BOARD,
HOSDURG, COLLECTORATE, KASARAGOD,
PIN-671 123.**
- 2. THE VILLAGE OFFICER,
MADIKAI VILLAGE, HOSDURG TALUK, P.O.MADIKAI,
PIN-671 314.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 37734 of 2015 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

- P1- THE TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER AND OTHERS UNDER SECTION 85(5)/(7) OF THE KERALA LAND REFORMS ACT BEFORE THE 1ST RESPONDENT.**
- P2- THE TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER ALONG WITH EXT.P1 TO CONDONE THE DELAY.**
- P3- THE TRUE COPY OF THE PETITION FILED BY THE PETITIONER ALONG WITH EXHIBIT P1 SEEKING AN ORDER OF STAY OF ALL FURTHER PROCEEDINGS PURSUANT TO THE ORDER IN TLB/2016/1973/HOSDURG.**
- P4- THE TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 30.9.2015.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No. 37734 of 2015

=====

Dated this the 16th day of December, 2015

J U D G M E N T

The petitioner aggrieved by an order passed by the Taluk Land Board as per Ext.P4 has approached this Court.

2. The petitioner approached the Taluk Land Board u/s 85(8) of the Kerala Land Reforms Act. The petitioner claims title to the property referred in the application based on a patta issued by the Land Tribunal, Kanhangad.

3. The application has been rejected stating that the petitioner has not approached the Board within 60 days from the TLB order. The petitioner submits that he is in possession of the land and there is no physical determination and demarcation of the property for the purpose of surrendering and it is only when the Village Officer came to measure the property, he came to know about the proceedings before the Taluk Land Board. The petitioner states that the date of knowledge of the proceedings on

15.6.2015.

4. It is to be noted that the Section 85(8) clearly states that the limitation has to be reckoned from the date of determination of the land for the purpose of surrendering under the Land Reforms Act. The determination necessarily implies that a physical determination of the land pursuant to the order of Taluk Land Board. Further the Taluk Land Board has also power to condone delay if there is sufficient cause for the petitioner approaching the Taluk Land Board within time. The petitioner's case is that he came to know only on 15.16.2015, when the Village Officer came to the site. In that view of the matter unless previous knowledge is attributed to the petitioner, this Court is of the view that a liberal view has to be taken by the Taluk Land Board to consider the application under 85(8) the Kerala Land Reforms Act. Therefore the impugned order is set aside.

5. The Taluk Land Board is directed to consider the application under 85(8) of the Kerala Land Reforms Act in accordance with the law. Appropriate decision shall be taken within six months from the date of receipt of the copy of this

judgment. Till the decision is taken by the Taluk Land Board status quo shall be maintained.

The writ petition is disposed of, as above.

Sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE