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Chandrika vs State of Kerala,

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Court : Kerala Orders

Decided On : Nov-30-2020

Judge : Honourable Mr. Justice Anil K.Narendran

Appeal No. : WP(C)/14406/2020

Appellant : Chandrika

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN MONDAY, THE 30TH DAY OF NOVEMBER 2020 / 9TH AGRAHAYANA, 1942 PETITIONER/S: 1 CHANDRIKA AGED 68 YEARS W/O.LATE SANTHA KUMAR, SAI KRISHNA, PERINGOTTUKURISI, ALATHUR TALUK, PALAKKAD. 2 SAI KRISHNA AGED 32 YEARS S/O.LATE SANTHA KUMAR, SAI KRISHNA, PERINGOTTUKURISI, ALATHUR TALUK, PALAKKAD. (PERSON OF UNSOUND MIND, REP.BY HIS MOTHER 1ST PETITIONER). BY ADV. SRI.H.BADARUDDIN RESPONDENT/S: 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM- 695001. 2 THE ADDITIONAL CHIEF

SECRETARY TO GOVERNMENT, REVENUE (B) DEPARTMENT, THIRUVANANTHAPURAM- 695001. 3 THE TALUK LAND BOARD, PALAKKAD, REPRESENTED BY ITS CHAIRMAN, REVENUE DIVISIONAL OFFICER, PALAKKAD, OFFICE OF THE REVENUE DIVISIONAL OFFICER,

4 THE DISTRICT COLLECTOR, 5 THE TAHSILDAR, 6 THE DEPUTY TAHSILDAR (LR), TALUK LAND BOARD, R3 BY GOVERNMENT PLEADER OTHER PRESENT: SMT A.C.VIDHYA - GOVERNMENT PLEADER THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30.11.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The 1st petitioner is the mother of the 2 nd petitioner. The petitioners have filed this writ petition under Article 226 of the Constitution of India, seeking a direction to the 3 rd respondent Taluk Land Board to hear and dispose of the ceiling case LB 541/1973 pending before it, as expeditiously as possible, within a time frame, after affording them a reasonable opportunity of being heard. The petitioners have also sought for an order directing the 2 nd respondent and respondents 4 to 6 to keep in abeyance of the implementation of Ext.P5 direction, until the disposal of the ceiling case LB 541/1973 by the Taluk Land Board, Palakkad.

2. A statement has been filed by the 3rd respondent Taluk Land Board. Paragraph 3 to 5 of that statement read thus:

3. It is submitted that Smt. Ammukutty Amma had filed statement under section 85(A) stay under Kerala Land Reforms Act, 1963 and the Taluk Land Board furnished copy of statement to the Special Deputy Tahsildar (LR), Palakkad to conduct en- quiry accordingly the Special Deputy Tahsildar (LR), Palakkad conducted enquiry. Meawhile, the said Smt. Ammukutty expired in the year 1991. She acquired those properties from her band Sri. V.I Mannadiar. The said Ammukutty Amma had no

children. The properties of the declarant included in the B schedule of the Partition Deed No.2878/1971 dated 11-09-1971 were trans- ferred to her sister Saraswathy and Kalyanikutty Amma by way of Will no 3/75/85 dated 16/10/1985. One Santha Kumar (hus- band of 1st petitioner) has claimed that he has acquired those

properties by way of a will. But no documents were produced in support of his claim. On the basis of the statement filed by the declarant, partition deed and village records, the Special Deputy Tahsildar has filed report in Annexure. As per Kerala Land Re- forms (Ceiling) Rules, 1970 showing the particulars of land owned by the declarant. But he could not prepare the Annexure B, C, D as per KLR (Ceiling) Rules in the absence of declarant. Draft statement with notice was issued to Sri.Santhakumar, the husband of the petitioner to appear before the Taluk Land Board for hearing on 23/08/2012. Sri. Santhakumar has requested time to file objections. Time for filing objection has been allowed many times. The case was adjourned again and again. Because of non appearance and non filing of statement the case, the case was posted to 12/12/2013 for orders. The Taluk Land Board in its order dated 12/12/2013 in ceiling case no.LB-541/73 has directed the declarant to surrender an extent of 828.97 acres of land being excess to the ceiling limit. The True copy of the pro- ceedings of Taluk Land Board, Palakkad dated 12/12/2013 is produced herewith and marked as AnnexureR3(a). And the ceil- ing area applicable to the family is 12 Acres ie, the declarant/le- gal heirs of declarant are eligible to retain 12 acres. Aggrieved by the order dated 12/12/2013, Sri. Santha Kumar and another filed CRP 320/14 before the Hon'ble High Court. Some of the in- terested parties filed application U/S 85(8) before the Taluk Land Board. They have also filed WP(C) No. 21703/14, WP(C) No.27403/14 and WP(C) No. 11859/15 before the Hon'ble High Court. As there were more than 700 claim petitions including - the petitioners in WP (C) 21703/14, 24703/14 and 100 claim petitions at a time. Accordingly some of the claim pe- titions were disposed of as per the order dated 05/02/15,

4. It is submitted that more than 500 petitions were disposed

& approximately 250 claim petitions were also to be disposed. For the speedy disposal it is decided to issue hearing notices to the remaining claim petitioners. Hearing notices were issued to 30 claim petitioners to appear for hearing on 02/04/2020. But due to Covid-19 restrictions, the hearings were postponed. It is respectfully submitted that at the present scenario it is not pos- sible to conduct hearing and complete the procedure within a limited time. In this ceiling case Final order can be issued only after disposing all the claim petitions. More than 500 petitions were disposed & approximately 250 claim petitions were also to be disposed. After hearing and on production of required docu- ments by the claimants, the same will be verified and order will be passed accrodingly.

5. It is submitted that no delay is occurred from Taluk Land

Board in disposing the ceiling cases as there are huge number of claimpetitions. More than 500 petitions were already disposed. More over few claim petitioners, whose application are rejected as they failed to produce required documents to prove their claim over the land, approached the Hon'ble Court against the TLB's order and hence caused delay in the disposal of other claim petitions. Hearings were postponed on the basis of proto- cols issued by the State Government for prevention of wide spread of Covid-19.

3. On 11.11.2020, the learned counsel for the petitioners has filed a memo to withdraw this writ petition.

4. Heard the learned counsel for the petitioners and also the learned Government Pleader for the respondents.

5. The learned counsel for the petitioners seeks permission to

withdraw this writ petition without prejudice to the right of the petitioners to challenge the notification dated 07.09.2020 issued under sub-section (1) of

Section 11 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Recording the above submission made by the learned counsel for the petitioners, this writ petition is dismissed as withdrawn reserving the legal right, if any, of the petitioners to challenge the aforesaid notification dated 07.09.2020. Sd/- ANIL K. NARENDRAN JUDGE MIN APPENDIX PETITIONER'S/S EXHIBITS: EXHIBIT P1 TRUE COPY OF THE WILL BEARING NO.167 OF 1985 OF BOOK NO.III OF SUB REGISTRY, PALAKKAD. EXHIBIT P2 TRUE COPY OF THE WILL DATED 16.10.1991 BEARING NO.172/1991 OF BOOK NO.III OF SUB REGISTRY PALAKKAD. EXHIBIT P3 TRUE COPY OF ORDER DATED 11.12.2014 IN CRP

(LR) 320 OF 2014.

EXHIBIT P4 TRUE COPY OF THE ORDER DATED 14.6.2018 OF THIS HON'BLE COURT IN CRP (LR) NOS.243, 246, 253, 255, 263, 404, 448, 410 OF 2016 & 41 OF 2018. EXHIBIT P5 TRUE COPY OF THE DIRECTION FROM THE 2ND RESPONDENT TO THE 4TH RESPONDENT DATED 20.12.2017. RESPONDENT'S/S EXHIBITS: ANNEXURE R3(A) TRUE COPY OF THE PROCEEDINGS OF TALUK LAND BOARD, PALAKKAD DATED 12.12.2013.

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