

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos.2056-2057 OF 2000

ERANHIKKAL MOHAMMED & ANR.

.....

APPELLANT(S)

VERSUS

TALUK LAND BOARD AND ORS.

....RESPONDENT(S)

O R D E R

Both these appeals arise against the order passed by

the High Court of Kerala in C.R.P.No.1458 of 1996,

C.R.P.No.52 of 1993 and C.R.P.No.671 of 1997

dt.01.06.1998. Both these appeals have been filed by the

declarant as he filed two petitions before the High Court,

i.e., C.R.P.No.1458 of 1996 and C.R.P.No.52 of 1993. Both

these petitions were dismissed by the High Court by its

order dt.01.06.1998.

The facts giving rise to these petitions are that in

a Ceiling Case, the Taluk Land Board finally passed an

order on 12.1.1981 holding that the statutory family of

the declarant held an extent of 207.04 acres of land as being in excess of the ceiling area as defined in the Kerala Land Reforms Act, 1963 (hereinafter referred to as

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'the Act'). The declarant filed C.R.P.No.723 of 1981 before the High Court challenging the order under Section 103 of the Act. The declarant was directed to file a statement showing the names of persons who according to the declarant were tenants under him. A list was filed by the declarant covering an extent of 171.29.05 acres. On 08.11.1983, the High Court allowed the revision filed by the declarant and remanded the proceedings to the Taluk Land Board for a fresh decision in respect of the tenancy claims put forward. On 04.09.1992, the Taluk Land Board passed a fresh order determining the ceiling area of the statutory family of the declarant. The Taluk Land Board held that an extent of 202.89 acres was held by the statutory family as lands in excess of the ceiling area.

This land was directed to be surrendered. Aggrieved,

the declarant-appellant and his wife filed C.R.P.No. 52

of 1993 challenging the aforesaid order.
The

High Court of Kerala entertained this petition and granted

an interim order staying all further proceedings. When the

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revision (C.R.P.No.52 of 1993) was pending before the High

Court, the Taluk Land Board, Ernad, purported to pass

another order dt.30.08.1994 reducing the extent liable to

be surrendered by the statutory family of the declarant to

159.57 acres accepting the claims of some of his tenants

that they were inducted as tenants prior to 01.04.1964.

Aggrieved against this order dt.30.08.1994, two C.R.Ps

were filed; one by the declarant which was registered as

C.R.P.No.1458 of 1996 and the State also filed a revision

against the order dt.30.08.1994 which was registered as

C.R.P.No.671 of 1994. All these three C.R.Ps were taken

together by the High Court and were dismissed by the

present impugned order dt.01.06.1998. The High Court

found that the order passed by the Taluk Land Board, Ernad

dt.04.09.1992 rejecting the claim of tenancy of the

declarant is correct and affirmed the order dt.04.09.1992

but at the same time it was observed that when the matter

was pending before the High Court during the pendency of

the matter, the Taluk Land Board ought not to have passed

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the order dt.30.08.1994 reducing the area of the claimant

from 202.89 acres to 159.57 acres. This according to the

High Court was without jurisdiction and, therefore, while

affirming the order of the Taluk Land Board dt.04.09.1992

set aside the order of the Taluk Land Board dt.30.08.1994.

Hence, now the matter is before us.

Learned counsel for the appellants has submitted

that as per the provisions of Section 72-K of the Kerala

Land Reforms Act, 1963, the certificate granted by the

Land Tribunal is a conclusive proof of the tenancy having been inducted in the possession of the land prior to 01.04.1964 and the same has to be accepted. The Taluk Land Board has not correctly approached the matter. Similarly, the counsel for the State also has a grievance that the subsequent order passed on 30.08.1994 was also not correct and the certificate has been mechanically accepted by the Taluk Land Board without going into the validity of it. In this connection, our attention was invited to a decision of this Court in Cheeranthoodika Ahmmedkutty and

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another vs. Parambur Mariakutty Umma and others, (2000) 2 SCC 417. In this case, this Court held that when Section 72-K of the Kerala Land Reforms Act, 1963 enjoined that certificate granted by Land Tribunal would be treated as conclusive proof of certain factual position, the legal hypothesis the law would forbid other evidence to be adduced for the purpose of contradicting or varying such

conclusiveness except fraud or collusion is alleged.

This judgment is relied on an earlier decision of this

Court in Chettian Veetil Ammad & Anr. vs. Taluk Land Board &

ors., (1980) 1 SCC 499.

After considering the rival submissions of the

parties, we are of the opinion that the High Court has not

correctly approached the matter. It is not correct on the

part of the High Court to hold that the order passed on

30.08.1994 by the Taluk Land Board is without

jurisdiction. It is true that when the matter was pending

before the High Court against the order dt. 04.09.1992, the

Taluk Land Board should not have entertained the

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applications of the tenants and they should have been

better advised to approach the High Court as the matter

was pending before the High Court. The Taluk Land Board

entertained the applications of the tenants and passed a

fresh order on 30.08.1994 reducing the area of the claimant from 202.89 acres to 159.57 acres meaning thereby that some of the claims of the tenants were accepted by the Taluk Land Board. Therefore, virtually the order dt.30.08.1994 amounts to amending the order dt.04.09.1992 and when the order dt.04.09.1992 of the Taluk Land Board was the subject matter before the High Court, it was not proper on the part of the Taluk Land Board to interfere in the matter. However, without going into all these contentions, it is just and proper that the matter be remanded back to the High Court because the High Court had no occasion to examine the validity of the order dt.30.08.1994 against which the claimant as well as the State had filed C.R.Ps and challenged the validity of this order. The High Court also did not examine each case that

whether the certificate granted by the Land Tribunal is correct or not. Since the State is also aggrieved against

this order and likewise the appellants, therefore, it would be just and proper that the High Court may examine the validity of order dt.30.08.1994 afresh and record its finding whether the Taluk Land Board has correctly granted the benefit of the certificate granted by the Land Tribunal. Hence, we allow both these appeals and remit these cases back to the High Court to decide the validity of order dt.30.08.1994 as well as the validity of order dt.04.09.1992 in the light of decision of this Court. All the three Revision Petitions; one filed against the order dt.04.09.1992 and the two Revision Petitions; one filed by the claimant and the other filed by the State against the order dt.30.08.1994 shall be revived back and they will be listed for hearing and they will be heard together by the High Court. In case the notice has not been given to the person affected against the order dt.30.08.1994 then the High Court shall ensure to

issue notice to those tenants in whose favour the order
dt.30.08.1994 was passed to do proper and complete justice
to all the parties. The appeals are accordingly allowed.

No costs.

.....J.

(A.K.MATHUR)

.....J.

(TARUN CHATTERJEE)

NEW DELHI;

AUGUST 2, 2006.

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ITEM NO.101(PH)

COURT NO.10

SECTION XIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2056-2057 OF 2000

ERANHIKKAL MOHAMMED & ANR.

Appellant (s)

VERSUS

TALUK LAND BOARD AND ORS.

Respondent(s)

(With office report)

Date: 02/08/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr. M.P. Vinod, Adv.

Mr. Ajay K. Jain, Adv.

Mr. Sajith P., Adv.

For Respondent(s)

Mr. P. Krishnamoorthy, Sr. Adv.

Mr. G. Prakash, Adv.

Ms. Beena Prakash, Adv.

Mr. Ramesh Babu M.R., Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeals are allowed in terms of the signed order.

No costs.

(Satish K. Yadav)

(Phoolan Wati Arora)

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Court Master

Court Master

(Signed order is placed on the file)