

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 30TH NOVEMBER 2010 / 9TH AGRAHAYANA 1932

WP(C).No. 28359 of 2009(L)

PETITIONER(S) :-

**V.SUMATHY, AGED 55 YEARS,
W/O.KUTTAPPAN, NELLANICKAL HOUSE,
KAKKI KAVALA, VANDIPERIYAR,
PEERUMEDU TALUK, IDUKKI DISTRICT.**

BY ADV. SRI.A.C.DEVASIA

RESPONDENT(S) :-

- 1. TALUK LAND BOARD PEERUMEDU,
REP. BY ITS CHAIRMAN, DEPUTY COLLECTOR (LR),
COLLECTORATE, KUYILUMALA, IDUKKI DISTRICT.**
- 2. DISTRICT COLLECTOR,
IDUKKI DISTRICT, KUYILUMALA,
PYNAVU, IDUKKI.**
- 3. TAHSILDAR,
PEERUMEDU, TALUK OFFICE, PEERUMEDU,
IDUKKI DISTRICT.**

GOVERNMENT PLEADER MR.DILEEP MOHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30/11/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

jvt

APPENDIX

Petitioner's Exhibits :-

- Ext.P1 :- Copy of the Offer of Assignments dated nil issued by the 1st respondent to the petitioner.
- Ext.P2 :- Copy of the petition dated 17.12.2008 submitted by the petitioner.
- Ext.P3 :- Copy of the representation of the petitioner dated 23.1.2009 before the 2nd respondent.
- Ext.P4 :- Copy of the direction dated 3.6.2009 by the 2nd respondent to the petitioner.
- Ext.P5 :- Copy of the representation of the petitioner dated 20.7.2009.
- Ext.P6 :- Copy of the reply dated 28.7.2009 by the 3rd respondent to Ext.P5.

Respondent's Exhibits :- NIL

//True Copy//

P.A. to Judge

ANTONY DOMINIC, J.

W.P(C) NO.28359 OF 2009

Dated this the 30th day of November, 2010

JUDGMENT

According to the petitioner, when the respondents invited applications for the assignment of excess land vested with the Government, the petitioner made an application to the Taluk Land Board, Peerumedu and the Taluk Land Board issued Ext.P1 offer of assignment of 1 acre of land situated in Survey No.69 of Peerumedu village. The purchase price fixed in Ext.P1 is Rs.400/-, which was to be remitted to the Government Treasury and the allottee was to produce chalan receipt before the Tahsildar. Petitioner's case is that instead of remitting the amount, she entrusted the amount to the Taluk Surveyor and that when the Taluk Surveyor attempted to survey and demarcate the property to be assigned, he was obstructed.

2. It is stated that thereafter, respondents did not take any effort to identify the land offered in Ext.P1. Representations were made by the petitioner and finally she was issued Ext.P6 requiring the petitioner to produce the documents mentioned

therein. Hence, this writ petition is filed praying for a direction to respondents to allot the property mentioned in Ext.P1 to the petitioner and to enlarge the time for remittance of purchase price. There is also a prayer that in the alternative, petitioner should be permitted to make a fresh application and that the same should be considered on merits.

3. In the statement filed on behalf of the respondents, the stand taken by them is that the petitioner did not remit the purchase price specified in Ext.P1 and that therefore, the offer of assignment stand automatically cancelled. It is also stated that in spite of the default thus committed by the petitioner, as and when notification in form No.16 of the Kerala Land Reforms (Ceiling) Rules is issued, the petitioner can apply afresh and that the same would be considered subject to her eligibility.

4. As far as the prayer of the petitioner for allotment of the land mentioned in Ext.P1 is concerned, Ext.P1 order required the petitioner to remit the purchase price in the manner specified in the order. Although, the amount was to be deposited in the Treasury and the chalan receipt was to be produced before the Taluk Surveyor, even according to the petitioner, the petitioner

allegedly entrusted the amount to the Taluk Surveyor. Not only that this averment is denied by the respondents, but it also is a fact that the petitioner does not have any evidence to substantiate her pleadings. Therefore, since the petitioner has not established of having paid the purchase price, in view of the conditions mentioned in Ext.P1, the offer of assignment stands cancelled. If that be so, respondents cannot be directed to allot the land offered to the petitioner. Therefore, the first prayer in the writ petition has only to be rejected and I do so. So far as the second prayer of the petitioner for enlarging the time for remittance is concerned, the notification was issued as early as on 26.11.84 and this court cannot now require the respondents to enlarge the time for payment of purchase price also.

5. In so far as the third relief for a direction to the respondents to permit the petitioner to apply afresh for assignment of land is concerned, in the statement filed by them, the respondents have stated that as and when a notification is invited, it is open to the petitioner to apply for assignment, and that if such an application is made, the same will be considered subject to her eligibility. Therefore, that statement made in the

counter affidavit should be satisfactory to the petitioner and hence, I record the said statement.

Subject to the above, this writ petition stands dismissed.

**ANTONY DOMINIC,
JUDGE**

dmb