

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 31ST DAY OF MARCH 2014/10TH CHAITHRA, 1936

CRP.No. 631 of 2010

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AGAINST THE ORDER IN SM 116/1977 of TALUK LAND BOARD,  
MANNARKKAD DATED 16-11-2010

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REVISION PETITIONER/CLAIMANT :

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PATHU @ PATHUMMA,  
W/O.LATE MOHAMMED, POLLAKKUNNAN HOUSE  
THIRUVIZHAMKUNNU P.O., MANNARKKAD, PALAKKAD.

BY ADV. SRI.M.C.JOHN

RESPONDENTS/COMPLAINANTS & STATE :

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1. STATE OF KERALA, REP. BY  
PRINCIPAL SECRETARY, REVENUE DEPARTMENT, SECRETARIAT  
THIRUVANANTHAPURAM-695 001.
2. THE TALUK LAND BOARD,  
MANNARKKAD CIVIL STATION, PALAKKAD-678 001.
3. PARVATHY AMMAL,  
THEKKUMPURAM, MANNARKKAD, PIN-678 001.
4. THE TAHSILDAR,  
MANNARKKAD, PALAKKAD, PIN-678 001.

R1,R2 & R4 BY GOVERNMENT PLEADER, SMT.SUSHEELA BHATT

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
31-03-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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**K. HARILAL, J.**

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**C.R.P. No. 631 of 2010**  
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**Dated this the 31<sup>st</sup> day of March, 2014**

**ORDER**

The revision petitioner is a claimant under Section 7E of the Kerala Land Reforms (Amendment) Act, 2005 as amended with effect from 18.10.2006 by the insertion of Act 21 of 2006. The Taluk Land Board initiated S.M. proceedings against the 3<sup>rd</sup> respondent herein under Section 85(7) of the Kerala Land Reforms Act, 1963, (for short, 'the Act'), since the 3<sup>rd</sup> respondent did not file return under Section 85A or 85(2). The statement was issued to her that she possessed 22.43 Acres in Sy.No.72/5A1 of Kumaramputhur Desom in Mannarkkad Taluk and that the ceiling area applicable to her family was 15 Acres. Hence she is liable to surrender 7.43 Acres as excess land.

2. The Taluk Land Board issued notice to the petitioner as person interested. The petitioner filed

an additional statement before the 2<sup>nd</sup> respondent claiming benefit under Section 7E introduced by Act 21 of 2006 with effect from 18.10.2006. Thereafter, the petitioner filed W.P(C).No.30736/07 before this Court for a direction to the 2<sup>nd</sup> respondent to take a decision on her claim under Section 7E at the earliest. By judgment dated 16.1.2008, this Court directed the Taluk Land Board to pass order as expeditiously as possible, at any rate, within three months. By an order dated 13.8.2008, the Taluk Land Board rejected her claim under Section 7E stating that there is a circular issued by the 1<sup>st</sup> respondent that Section 7E need not be considered.

3. Thereafter, the petitioner filed W.P(C).No.26306/08 challenging the rejection of the petitioner's claim under the circular issued by the Secretary of the Land board. This Court, relying on the decision in W.P(C).No.15629/08, has quashed the said order and the Taluk Land Board was directed to pass order afresh within six months from the date

of receipt of a copy of the judgment.

4. Thereafter, the Taluk Land Board considered the petitioner's claim under Section 7E and again rejected the claim. Again the petitioner challenged the said order in W.P(C).No.825/2009 and this Court set aside the impugned order therein rejecting the claim of the revision petitioner under Section 7E and directed the Taluk Land Board to pass order afresh. The Taluk Land Board again considered the claim of the petitioner under Section 7E and rejected again. None of these orders rejecting the claim were passed on merits. The legality and propriety of the said order are under challenge in this Revision Petition.

5. The learned counsel for the revision petitioner submits that though the petitioner had repeatedly approached this Court and obtained orders directing the Taluk Land Board to consider the claim under Section 7E on merits; the said claim had never been considered on merits, so far, in spite of the repeated directions, in the orders passed thrice,

in three writ petitions. The learned counsel further drew my attention to the reasons stated for not considering the petitioner's claim.

6. Going by the reasons stated in the impugned order it is seen that the Taluk Land Board has not considered the claim on merits on the reason that the rules for the amendment under Section 7E are not framed and the Taluk Land Board decided that the claim under Section 7E of the Kerala Land Reforms (Amendment) Act 2005 need not be considered in this case. Going by the entire proceedings from the beginning, I find that the impugned order is passed in total defiance to the orders passed by this Court repeatedly. I am of the opinion that it amounts to non compliance of the direction of this Court, which would entail proceedings under the Contempt of Court Act. It is also stated that, the Taluk Land Board is satisfied that the transfer of land made by person in possession of excess land is calculated to defeat the

ceiling provisions and the land so transferred would be taken into account, in determining her ceiling area and directed her to surrender such extent of land held or possessed by her. But, the said finding is not supported by any kind of evidence, either oral or documentary. In short, the Taluk Land Board miserably failed to exercise jurisdiction vested in it, in accordance with law.

7. As regards the decision of the Taluk Land Board, not to consider 7E claim, this Court in WP(C) No. 15629 of 2008 held as follows:

*I have heard the learned Government Pleader also. The learned Government Pleader could not advance any reasoning in support of Ext.P2. He would submit that a proposal is under consideration by the Government to rescind the amendment introducing Section 7E in the Act. Whatever be the proposal mooted by the Government, as long as Section 7E is in the statute book, the Secretary of the Land Board could not have validly issued Ext.P2. No Government official has the jurisdiction to say that a provision in the statute book can be ignored. Therefore, Ext.P2 is clearly without*

*jurisdiction.*

*Accordingly, Ext.P2 is quashed. Now that Ext.P1 is pending before the 3<sup>rd</sup> respondent, the 3<sup>rd</sup> respondent has a duty to consider and pass appropriate orders thereon as expeditiously as possible. In the above circumstances, I dispose of this writ petition with a direction to the 3<sup>rd</sup> respondent to consider and pass appropriate orders on Ext.P1, as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment.*

In view of the above decision, the Taluk Land Board has no right to reject the claim on the reasoning that rules for amendment under Section 7E are not framed or Taluk Land Board decided not to consider a claim under Section 7E.

8. In the light of the above discussion, I find that the Taluk Land Board has rejected the claim of the revision petitioner illegally, in total disobedience to the orders of this Court made repeatedly. Consequently, I set aside the impugned order under challenge and this revision petition is allowed with a cost of Rs.5000/-, payable to the revision petitioner,

by the Taluk Land Board. The Taluk Land Board, Mannarkkad is directed to consider the claim of the petitioner under Section 7E of the Act 21 of 2006 on merits, within a period of six months from today. The registry is directed to send a copy of this order to the District Collector, Palakkad and the Revenue Secretary, the State of Kerala also.

**Sd/-K.HARILAL  
JUDGE**

OKB/MJL