

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C. JAYACHANDRAN

TUESDAY, THE 5TH DAY OF MARCH 2024 / 15TH PHALGUNA, 1945

OP(C) NO. 215 OF 2024

IN OA NO.10 OF 2023 OF LAND TRIBUNAL, KARUNAGAPPALLY

PETITIONER(S) / PETITIONERS / RESPONDENTS :-

- 1 SURENDRAN
AGED 73 YEARS, S/O GOPALAN, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518
- 2 SASIDHARAN
AGED 70 YEARS, S/O GOPALAN, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518.
- 3 REMANI
AGED 68 YEARS, D/O JANAKI, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518.
- 4 SUNDARESHAN,
AGED 67 YEARS, S/O GOPALAN, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518.
- 5 ASHOKAN
AGED 64 YEARS, S/O GOPALAN, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518.
- 6 RADHAMANI
AGED 62 YEARS, D/O JANAKI, KOCHUPURAKKAL,
KALLELIBHAGOM MURI, KALLELIBHAGOM VILLAGE,
KARUNAGAPPALLY TALUK, KOLLAM DISTRICT,
PIN - 690518.
- 7 KANAKAN
AGED 58 YEARS, REVATHI MANDIRAM,
CHANGANKULANGARA, VAVVAKKAVU P.O.,
KARUNAGAPPALLY TALUK, PIN - 690518.

BY ADVS.

K.S.HARIHARAPUTHRAN

PINKU MARIAM JOSE

ANIL KUMAR T.P.

RESPONDENT(S)/RESPONDENT/PETITIONER AND STATE:

- 1 SREE VIDHYA DEVASWOM TRUST
AGED 50 YEARS
PULITHITTA, CHANGANKULANGARA, VAVVAKKAVU P.O.,
OCHIRA VILLAGE, KARUNAGAPPALLY TALUK, KOLLAM
DISTRICT, REP. BY ITS MANAGING TRUSTEE, R. VINOD
KUMAR, S/O RAGHAVAN, KOCHUPARAYATTU HOUSE,
VAVVAKKAVU P.O., OCHIRA VILLAGE, KARUNAGAPPALLY
TALUK, KOLLAM DISTRICT, PIN - 690528.
- 2 LAND TRIBUNAL
KARUNAGAPPALLY REPRESENTED BY SECRETARY,
PIN - 690518
BY ADVS.
ASWINI SANKAR R. S .
K.RAMAKUMAR (SR.) (R-245)
T.RAMPRASAD UNNI (K/962/1992)
S.M.PRASANTH (K/957/1994)
T.H.ARAVIND (K/000266/2017)
SHEHIN S. (K/3733/2023)

THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
05.03.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J U D G M E N T

Dated, this the 05th day of March, 2024

The petitioners herein are the respondents in Ext.P2 application for issuance of Purchase Certificate before the Land Tribunal, Karunagappally. They are aggrieved by Ext.P6 order, which rejected their interlocutory application challenging the maintainability of Ext.P2. The interlocutory application, I.A. No.1/2023, was dismissed holding that the petitioners herein failed to produce any document in support of their claim over the subject property and also, for the reason that the dispute between the petitioners and the respondents and their claims over the subject property is pending consideration before the Sub Court, in O.S. No.42/2023.

2. Heard Sri.K.S.Hariharaputhran, learned counsel for the petitioners and Sri.K.Ramakumar, learned Senior counsel, duly instructed by Adv.R.S.Aswini Sankar, on behalf of the respondents.

3. Learned counsel for the petitioners submit that Ext.P2 application is not maintainable, since it is a pre-condition to have a lease arrangement, so as to enable the respondents herein to seek issuance of 'patta'. It was also submitted that the land in question should be an agricultural land as well. It is without consideration of these aspects that the impugned Ext.P6 order was passed. According to the learned counsel, Ext.P6 is liable to be set aside and Ext.P2 application for issuance of 'patta' is liable to be dismissed as not maintainable.

4. Per contra, learned Senior counsel would submit that the rival claims of the petitioners

and the respondents, insofar as the subject property is concerned, is pending consideration before the Sub Court, Karunagappally in O.S. No.42/2023. According to the learned Senior counsel, Ext.P2 application can be kept in abeyance until the rights of the parties are decided by the Sub Court.

5. Having regard to the submissions made on behalf of the respective parties, this Court is of the opinion that Ext.P2 can be kept in abeyance, until a decision is taken in the suit, O.S.No.42/2023, pending before the Sub Court, Karunagappally. This Court is agreeing to the said course, as suggested by the learned Senior counsel, inasmuch as Ext.P2 is an application preferred by the respondents themselves, who are seeking the same to be kept in abeyance, until a decision is arrived at in the pending suit between the parties. Once Ext.P2 application is conceded to be kept in abeyance for a definite

period as indicated above, the petitioners have no right to insist that the same should be dismissed immediately on the basis of the objections posed by them, as regards the maintainability of the said application.

6. In the circumstances, all further proceedings before the Land Tribunal, pursuant to Ext.P2 application for issuance of 'patta', shall be kept in abeyance until a decision is taken by the Sub Court, Karunagappally, in O.S.No.42/2003.

This Original Petition is disposed of, as above. After disposal of the suit, Ext.P2 will be considered on the relative merits as between the claims of the parties concerned.

Sd/-

C.JAYACHANDRAN, JUDGE

APPENDIX OF OP (C) NO. 215/2024

PETITIONERS' EXHIBITS:-

- EXHIBIT P1 TRUE COPY OF THE ORDER NO.A8-6364/2022 DATED 31.10.2022, ISSUED BY THE TAHASILDAR (L.R), KARUNAGAPPALLY, TO THE 1ST RESPONDENT AND OBTAINED BY THE PETITIONERS UNDER RTI ACT
- EXHIBIT P2 TRUE COPY OF APPLICATION SUBMITTED BY THE 1ST RESPONDENT DATED 12.12.2022, BEFORE THE 2ND RESPONDENT AND OBTAINED BY THE PETITIONERS UNDER RTI ACT
- EXHIBIT P3 TRUE COPY OF THE ILLEGIBLE NOTICE DATED 12.12.2022 IN OA 10/2023, ISSUED BY THE 2ND RESPONDENT, TO THE PETITIONERS
- EXHIBIT P4 TRUE COPY OF THE IA 1/2023 IN O.A.NO. 10/2023 FILED BY THE PETITIONERS BEFORE THE LAND TRIBUNAL KARUNAGAPPALLY
- EXHIBIT P5 TRUE COPY OF THE OBJECTION DATED 22.12.2022 SUBMITTED BY THE 1ST RESPONDENT BEFORE THE 2ND RESPONDENT IN IA 1/2023 IN O.A.NO. 10/2023 BEFORE THE LAND TRIBUNAL KARUNAGAPPALLY
- EXHIBIT P6 TRUE COPY OF THE ORDER DATED 10.01.2024 IN I.A.NO. 1/2023 IN O.A.NO. 10/2023 OF THE LAND TRIBUNAL KARUNAGAPPALLY