

Kerala Ayurveda Vydyasala Ltd.

Vs

Pandara Valappil Kallianai and Another

Civil Appeal No. 2216 of 1988

(K. T. Thomas, D. P. Wadhwa, S. M. Quadri JJ)

21.01.1999

ORDER

1. The appellant is a public limited company called Kerala Ayurveda Vydyasala Ltd. The appellant has extensive land but very proximally to the Vydyasala of the appellant there existed a kudikidappu, a land which belongs to the appellant. As the site of the said kudikidappu was found to be inconvenient to the appellant, an application was made before the Land Tribunal under Section 75(2) of the Kerala Land Reforms Act, 1963 (for short "the Act") for shifting the kudikidappu to another alternative site belonging to the appellant. The application was allowed by the Land Tribunal against which the kudikidappukaran has filed an appeal before the Land Reforms Appellate Authority but the appeal was dismissed on merits subject to some modification. The kudikidappukaran moved the High Court in revision And in that revision, the High Court set aside the orders of the Land Tribunal and the appellate authority, as per the impugned order before us.

2. Learned Single Judge of the High Court has gone into the factual possession (sic position) and observed thus :

"Even if the site of the kudikidappu is excluded there could be no difficulty in putting up the construction according to the site plan which has been drawn up. This is a relevant fact which has been overlooked by the authorities below. The matter is therefore required to be reconsidered."

3. Nonetheless learned Single Judge allowed the revision which mean that the orders of the Land Tribunal and the appellate authority were set aside.

4. Learned counsel for the appellant contended that the jurisdiction of the High Court in revision is very much limited as indicated in Section 103 of the Act. Sub-section (1) reads thus :

103. (1) Any person aggrieved by -

(i) any final order passed in an appeal against the order of the Land Tribunal; or

(ii) any final order passed by the Land Board under this Act [or]

(iii) any final order of the Taluk Land Board under this Act,

may, within such time as may be prescribed, prefer a petition to the High Court against the order on the ground that the appellate authority or the Land Board, or the Taluk Land Board, as the case may be, has either decided erroneously, or failed to decide, any question of law."

5. It is very clear that the jurisdiction can be exercised by the High Court under Section 103 of the Act only if the Tribunal has decided any question of law erroneously or failed to decide the question of law at all.

6. The impugned order of the learned Single Judge shows that no question of law whatsoever has been formulated before the High Court and there is no finding that the Tribunal or the appellate authority has either decided a question of law erroneously or has failed to decide a question of law. Hence, we are of the considered view that learned Single Judge has acted without jurisdiction in interfering with the orders of the Land Tribunal and the appellate authority.

7. In the result, we upset the impugned order and restore the order of the Land Reforms Appellate Authority.

8. The appeal is disposed of accordingly.