

# KERALA HIGH COURT

Panakal Thundathil Mathew

Vs

The Taluk Land Board

(K.Harilal, J.)

01.09.2014

## JUDGMENT

### **K.Harilal, J.**

The petitioner is a claimant under Section 84(4) of the Kerala Land Reforms Act, 1963, (for short, 'the Act') as amended by the Kerala Land Reforms (Amendment) Act, 2005 (Act 21 of 2006), before the Taluk Land Board, Ernad, in ceiling case No.CR-1150/73. The assessee in the ceiling case was one Mathew Rossa, who expired in the year 1983. She was unmarried. Her brother Panakkal Thundathil Mathai was her only legal heir. He expired in the year 1991. The petitioner is one of the children and legal heirs of the said Mathai. The Taluk Land Board initially passed an order dated 21-6-1976 in the above ceiling case directing the assessee to surrender 6.91 ordinary acres of excess land. There were several revised orders passed subsequent thereto. The last revised order passed by the Taluk Land Board in the said ceiling case was dated 24-1-2006 as per which the total extent to be surrendered

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as excess land is 3.77 Acres in R-Sy.No.186/1B2, 260/2 and 272. The assessee during her lifetime had sold different extent of lands as per registered documents to several persons. True copy of the said registered documents Nos.331/79, 1174/79 and 1343/75 are produced and marked as Exts.P2 to P4 respectively. According to the petitioner, the land covered by the said documents are liable to be deleted from the account of the assessee. The petitioner claiming protection under the said Amendment Act (Act 21 of 2006) filed Ext.P5 petition under Section 84(4) of the Act before the 1st respondent Taluk Land Board, but pending Ext.P5 petition urgent steps are being taken for taking possession of excess land as determined by the Taluk Land Board. Hence the petitioner prayed for an order directing the Taluk Land Board to dispose Ext.P5 petition on merit and also to issue a direction restraining the Taluk Land Board from taking possession of excess land in the ceiling case No.CR- 1150/73 till Ext.P5 petition is finally considered.

2. During the pendency of this writ petition, the Amendment Act 6 of 2012 also has been introduced in the statute book granting protection to cashew estate under Section 81 of the Act. The petitioner has claimed exemption of 3.50 Acres in Re-Sy.No.186/1 B2 and 2 Acres in Re-Sy.No.272 (5.50

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Acres) both in Kizhuparambu Village as cashew estate before the 1st respondent vide application dated 20-8-2014, which is produced and marked in this petition as Ext.P6. Thus the petitioner has sought for a direction to dispose Exts.P5 and P6 on merits and also to pass an order restraining the Taluk Land Board from taking possession of the property under the ceiling proceedings till the disposal of Exts.P5 and P6.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents. Going by the averments in the petition, it is seen that the petitioner has raised claims under two amendment acts introduced into the KLR Act in the year 2006 and 2012 by Act 21 of 2006. As per Section 84(4) of the Amendment Act 21 of 2006, no acquisition of land from excess holder acquired during the period between the date of commencement of Land Reforms Act 1963 and the date of commencement of Kerala Land Reforms Amendment Act 2005 shall be invalid provided that the said transfer of land is not calculated to defeat the ceiling provisions of the Act. According to the petitioner, the deceased declarant himself had transferred the lands covered by Exts.P2 to P4 for valid consideration during the period of 1975 to 1979. Therefore, the declarant is entitled to get exemption of those

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lands from the ceiling area. Similarly, the Amendment Act 6 of 2012 has been introduced in the statute book as per which cashew estate is made an exempted category under Section 81 of Act. The petitioner has claimed exemption of 3.50 Acres in Re-Sy.No.186/1132 (5.50 Acres both in Kizhuparambu Village) and Ext.P6 application dated 20-8-2014 is pending consideration before the 1st respondent.

4. I find some force in the arguments of the learned counsel for the petitioner that if Exts.P5 and P6 petitions are allowed, accepting the contentions of the petitioner, substantial extent of property will be liable to be deleted from the account of the deceased declarant. In the above view, the Taluk Land Board is directed to dispose Exts.P5 and P6 within a period of six months from today and all further proceedings for taking possession of the property directed to be surrendered as excess land will stand stayed till the disposal of Exts.P5 and P6.

This writ petition will stand allowed.

Sd/-

(K.HARILAL, JUDGE) okb.

