
(1991) 01 KL CK 0056
In the High Court Of Kerala
Case No : O.P. 8802 of 1989 W

Kamala Devi

APPELLANT

Vs

Leelama and Others

RESPONDENT

Date of Decision : 07-01-1991

Acts Referred:

Kerala Land Reforms (Tenancy) Rules, 1970 — Rule 92, 92(3)
Kerala Land Reforms Act, 1963 — Section 101, 101(1), 99

Citation : (1991) 01 KL CK 0056

Hon'ble Judges : M.M. Pareed Pillay, J

Bench : Single Bench

Advocate : K.J. Josemon, for the Appellant; P. Radhakrishnan, for the Respondent

Judgement

M.M. Pareed Pillay, J.—The Petitioner is the first wife of Isravel who died on 1st October 1980. Case of the Petitioner is that at the time of Isravel's death he was in possession of 5 acres of land in Sy. Nos. 222 and 223 of Kumily village, that S.M. 154/75 was pending before the Land Tribunal, Peermade with regard to 2 acre 75 cents in Sy. No. 222 of Kumily village, that after the death of Isravel the Petitioner and the first Respondent (second wife) were impleaded in S.M. 154 of 1975 and that Ext. P-1 purchase certificate was issued in their names. The grievance of the Petitioner is that in S.M. 15 of 1981 initiated in favour of the first Respondent before the Land Tribunal, Peermade which has been transferred to the Land Tribunal, Thodupuzha and renumbered as S.M. 90 of 1988 the Petitioner sought impleadment and that was refused. Petitioner filed the petition on knowing that the proceedings are initiated to assign the property in favour of the first Respondent. The Land Tribunal, Thodupuza as per Ext. P-4 order dismissed I.A. 1 of 1989.

2. The question that arises for consideration is whether the Land Tribunal can implead a third party in a proceedings before it. Counsel for the Petitioner relied on *Thressia v. Thankamma* 1980 (3) KLT 378 where it was held that the

provisions of the CPC relating to addition of parties apply to the proceedings under the Kerala Land Reforms Act. Counsel for the Respondents pointed out that the above decision does not refer to a Division Bench ruling of this Court in *Subramaniya Iyer v. Taluk Land Board* 1985 1 KLT 140 where it is held that there is no power under the Kerala Land Reforms Act, 1963 enabling the Taluk Land Board to implead a stranger, and power is specifically conferred under Rule 92(3) of the Kerala Land Reforms (Tenancy) Rules, 1970 to implead certain persons who are the legal representatives of a deceased party in a proceeding pending before the Board. This decision was not brought to the notice of the Court which decided the case reported in 1989 (2) KLT 378.

3. Rule 92(3) of the Kerala Land Reforms (Tenancy) Rules provides that the Land Tribunal shall also have the power to add as parties the legal representatives of a deceased party in any proceedings pending before it; and the provisions of Order XXII of the First Schedule to the Code of Civil Procedure, 1908 shall, as far as may be, apply to the proceedings for impleading the legal representatives. Sub-rule (4) provides for the period of limitation for application for impleading legal representatives as ninety days from the date of death of the party. As Rule 92(3) specifically states that the Land Tribunal's power to add parties is limited to adding legal representatives of the deceased party only that power cannot be extended to implead a third party to the proceedings in *Paru v. Lekshmanan* 1981 KLT 881 *Balakrishna Menon, J.* (as he then was) held that Rule 92 does not empower the Land Tribunal to implead additional parties except as regards legal representatives of a deceased party in proceedings before it. It has also been held in 1976 KLT S.N. 196 that the power of the Land Tribunal is only to implead the legal representatives of parties before the Tribunal in proceedings pending before it and who died pending these proceedings. Section 101 of the Kerala Land Reforms Act vests the Land Board and the Land Tribunal with all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the matters specified thereunder. Impleading additional party is not a matter enumerated u/s 101. u/s 101(1)(e) such powers are extended to any other matter which may be prescribed.

4. Rule 92 of the Kerala Land Reforms (Tenancy) Rules prescribes the powers of the Land Tribunal. Rule 92 enables the Land Tribunal to issue commissions, grant injunctions, appoint receivers and pass interlocutory orders during the pendency of the proceeding as found necessary by the Tribunal to be just and proper to meet the ends of justice. A reading of Rule 92(3) clearly shows that the Rule does not empower the Land Tribunal to implead any third party. It is vested only with the power to implead additional parties who are the legal representatives of a deceased party in any proceedings before it. As the Land Tribunal is a statutory Tribunal constituted u/s 99 of the Kerala Land Reforms Act and its powers and jurisdiction are confined to those that are specifically mentioned in the Act and Rules it has to be held that the Land Tribunal lacks jurisdiction to implead a third party to any proceedings before it.

5. As the first Respondent claims independent right over the property and not as the legal representative of her deceased husband the Petitioner can figure only as a third party to the proceedings. Therefore, the Land Tribunal was justified in refusing the impleadment.

6. It is open to the revision Petitioner to file separate application with regard to the property on the basis of her contention that it belonged to her deceased husband.

Though such a right is available to her she cannot get herself impleaded in the proceeding where the first Respondent contends that she alone has right in the property.

In the result the Original Petition is dismissed. No costs.