

(1999) 01 SC CK 0087

In the Supreme Court Of India

Case No : Civil Appeal No. 747 Of 1988

Rosamma John (Mrs)

APPELLANT

Vs

Taluk Land Board and Others

RESPONDENT

Date of Decision : 27-01-1999

Acts Referred:

Citation : (2002) ACJ 337 : AIR 2000 SC 3629 : (1999) 9 SCC 21

Hon'ble Judges : S. S. M. Quadri, J;K. T. Thomas, J

Bench : Division Bench

Final Decision : Allowed

Judgement

K.T. Thomas and; Syed Shah Mohammed Quadri, JJ.-The grievance of the appellant seems to be that a claim petition said to have been filed by this appellant before the Taluk Land Board, Nedumangad, Trivandrum, Kerala on 10-7-1986 has not been disposed of by the said Board.

2. In the ceiling case of one K.K. Chacko the Taluk Land Board determined the excess area to be surrendered by him. It appears that the said declarant had indicated a certain land situate at Thaliparamba Taluk, said to be belonging to the declarant, for the purpose of surrendering under the provisions of the Kerala Land Reforms Act (for short "the Kerala Act"). The present appellant now says that the land which the declarant has indicated actually belongs to the appellant and the declarant together as co-owners as both of them purchased the said land by one sale deed.

3. If any such claim petition has been filed by the appellant under Section 85(8) of the Kerala Act it has to be disposed of in accordance with law. It is not clear from the impugned order whether anything is said, much less decided, in regard to the said claim petition which is said to have been filed by the appellant. The order passed by the Taluk Land Board is binding on the declarant and such other parties who were parties in the proceedings and also those who claimed through him. If the appellant was not a party in the proceedings before the Taluk Land

Board apparently the appellant is not bound by the observations and findings made by the Taluk Land Board or the High Court in the ceiling case relating to the declarant. We are, therefore, not inclined to interfere with the impugned order.

4. But that is not enough to satisfy the grievance of the appellant. Learned counsel for the appellant contends that so long as the claim petition filed by the appellant before the Taluk Land Board on 10-7-1986 stands undisposed of the land which he claims and which is situate at Thaliparamba, cannot go into the account of the declarant. It is for the appellant to pursue the claim, if any, made by him under Section 85(8) of the Kerala Act, if as a matter of fact any such claim petition has been filed and is pending before the Taluk Land Board. It is open to the appellant to move the appropriate authority to have the said claim determined or disposed of in accordance with law. We dispose of this appeal without prejudice to the aforesaid rights of the appellant in pursuing the remedy. No costs.