

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

RP.No. 696 of 2014

JUDGMENT DATED 25.7.2014 IN WA 1721/2009.

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REVIEW PETITIONER(S)/APPELLANTS:

1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM.
2. THE TAHSILDAR, TALUK OFFICE, DEVIKULAM.
3. THE REVENUE DIVISIONAL OFFICER/
SUB COLLECTOR, DEVIKULAM.
4. THE DISTRICT COLLECTOR,
IDUKKI COLLECTORATE, PAINAVU P.O.,
IDUKKI DISTRICT.

BY SPECIAL GOVERNMENT PLEADER SMT.SUSHEELA R.BHATT

RESPONDENT(S)/RESPONDENTS :

1. MUNNAR WOODS, A PARTNERSHIP FIRM
REGISTERED UNDER THE INDIAN PARTNERSHIP ACT,
1932, REP.BY ITS MANAGING PARTNER K.A.JOSEPH,
S/O. ASTHAPANOS, RESIDING AT 37/2990,
KALLINGAL HOUSE, PONOTH ROAD, KALOOR, KOCHI.
2. K.SURESH KUMAR, I.A.S, SPECIAL OFFICER FOR EVICTION,
CAMP OFFICE AT LB OF KSEB CHITTIRAPURAM P.O.,
PALLIVASAL VILLAGE, DEVIKULAM.
3. RISHIRAJ SINGH, IPS, SPECIAL OFFICER FOR EVICTION,
CAMP OFFICE AT LB OF KSEB, CHITTIRAPURAM P.O.,
PALLIVASAL VILLAGE, DEVIKULAM TALUK.

BY ADV.SRI.P.B.KRISHNAN

**THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 02-11-2015 ALONG WITH RP.825/2014, THE COURT
ON 23-12-2015 PASSED THE FOLLOWING:**

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RP No. 696 of 2014

APPENDIX

PETITIONERS ANNEXURES:

ANNEXURE I: TRUE COPY OF THE JUDGMENT DATED 28.6.2013 IN
WPC.NO.14986/2007.

ANNEXURE II: TRUE COPY OF THE JUDGMENT DATED 6.6.2013 IN
WPC.NO.34095/2007.

ANNEXURE III: TRUE COPY OF THE JUDGMENT DATED 25.5.2012 IN
WPC.NO.32000/2005.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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R.P.No.696/14 in WA No.1721/09

&

R.P.No.825/14 in WA No.1878/09

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Dated this, the 23rd day of December, 2015

O R D E R

Shaffique, J.

These review petitions are filed by the appellants in the writ appeals seeking to review the common judgment dated 25/7/2014 in Writ Appeal Nos.1721/2009 and 1878/2009. WA No.1721/09 was filed by the respondents in the writ petition and WA No.1878/09 was filed by a third party challenging judgment of the learned Single Judge. While disposing of the writ appeals, the judgment of the learned Single Judge is modified to the limited extent of setting aside the cost imposed on the appellant in WA No.1878/09 and it was observed that the cost has to be paid by the State of Kerala. In all other aspects, the judgment of the learned Single Judge was confirmed. It was also observed that disposal of the appeals does not preclude the Government from taking appropriate action in accordance with law and in

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compliance with the observations made in the judgment.

2. The review has been filed *inter alia* contending that the Division Bench of this Court had not considered all the material facts and circumstances involved in the matter whereas the effect and impact of the action taken by the Government in relation to the Cardamom Hill Area which is a forest area has been completely ignored.

3. The appeals came to be filed challenging the judgment passed by the learned Single Judge wherein the learned Single Judge allowed the writ petition filed by the petitioner and having quashed Ext.P1 directed the review petitioners to restore the land resumed from the petitioner. Their right to approach the appropriate forum for damages for destruction of the buildings was reserved. It was also observed that the person who had misused his powers while issuing Ext.P1 is liable to pay cost, which is quantified at ₹15,000/-. Having gone through the entire legal and factual arguments raised on behalf of the Government and its authorities, we have confirmed the view expressed by the learned Single Judge. However, we observed that the cost

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imposed by the learned Single Judge has to be borne in by the State of Kerala other than the concerned officer.

4. Learned Special Government Pleader submits that the judgment warrants review especially on account of various other judgments passed by the Division Bench of this Court. Reference is made to judgment dated 22/6/2013 in WP(C) No.14986/2007. A perusal of the judgment does not indicate that the issue projected by the writ petitioner in the above case has been considered in the said judgment. Same is the position with reference to the judgment dated 25/5/2012 in WP(C) No.32000/2005. That was a case in which a Public Interest Litigation came to be filed for taking action to protect the wild life and forest area at Mankulam, Cardamom Hill Reserve in Idukki District and Nelliampathy. In that case, this Court was not concerned with the individual rights of the writ petitioners in the present case. The Division Bench also observed that the State has to proceed with the decision taken by them in strict adherence with the legal procedure including compliance of provisions of law and the directions of the Apex Court from time to time in that

R.P.No.696/14 in WA No.1721/09
&
R.P.No.825/14 in WA No.1878/09

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regard.

5. It is relevant to note that each case has to be decided on its own facts. Present is a case where an order of resumption has been passed by the District Collector, which was set aside when challenge was made by the writ petitioner before this Court. All the respective contentions of the parties were considered in detail and we do not think that the contentions urged in the pleadings have been left out from consideration. However, we are not expected to consider matters which are extraneous to the pleadings of the parties and we are not expected to consider the same as well.

Under such circumstances, we are of the view that no grounds are made out to review the judgment and, accordingly, the review petitions are dismissed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge