

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

RPNo. 746 of 2014 (R)

WP(C) 21573/2007 of THIS HON'BLE COURT

REVIEW PETITIONERS/RESPONDENTS IN WPC :

- 1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
TO GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. THE PRINCIPAL SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
- 3. THE DISTRICT COLLECTOR, IDUKKI.**
- 4. THE REVENUE DIVISIONAL OFFICER
DEVIKULAM, IDUKKI DISTRICT**

BY SPL. GOVERNMENT PLEADER SMT. SUSHEELA R. BHATT

RESPONDENT/PETITIONER :

**FR.JOSE KANDATHIL,S/O.THOMAS,
MEMADANGU KARA, ARAKUZHA VILLAGE,
MUVATTUPUZHA TALUK - 686661**

BY SRI.R.RAMADAS

**THIS REVIEW PETITION HAVING BEEN FINALLY HEARD
ON 2-11-2015, ALONG WITH RP. 753/2014 & CONNECTED
CASES,THE COURT ON 23-12-2015 PASSED THE FOLLOWING:**

bp

RP.No. 746 of 2014 (R)

APPENDIX

PETITIONER'S ANNEXURES :

ANNEXURE I: COPY OF THE JUDGMENT DT 28/6/2013 IN WPC NO. 14986/2007.

ANNEXURE II: COPY OF THE JUDGMENT DT 6/6/2013 IN WPC NO. 34095/2007.

ANNEXURE III: COPY OF THE JUDGMENT DT 25/5/2012 IN WPC NO. 32000/2005.

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

=====
R.P.Nos.746/14 in WP(C) No.21573/07,
753/14 in WP(C) No.20075/07,
761/14 in WP(C) No.20266/07,
1087/15 in WP(C) No.20266/07
1089/15 in WP(C) No.21573/07
& 1102/15 in WP(C) No.20075/07
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Dated this, the 23rd day of December, 2015

O R D E R

Shaffique, J.

RP Nos. 753/2014, 761/2014 and 746/2014 are filed seeking to review common judgment dated 25/7/2014 in WP(C) Nos.20075/2007, 20266/2007 and 21573/2007. RP Nos.1102/2015, 1087/2015 and 1089/15 are filed by a third party after seeking leave of Court against the very same common judgment. Since all these review petitions are concerned with the common judgment, these review petitions are decided together.

2. The writ petitions were disposed of by this Court in the following manner;

*"40. Having regard to the aforesaid findings, we are of the view that the writ petitions are only to be allowed as under;
Ext.P37 in WP(C) No.20075 of 2007, Ext.P18 and*

Ext.P19 in WP(C) No.20266 of 2007 and Ext.P4 in WP(C) No.21573 of 2007 are set aside, reserving liberty to the Government or appropriate authorities to take necessary action in accordance with the procedure prescribed in the light of the observations made above."

3. The contention urged on behalf of the review petitioners is that material questions of fact and law were omitted to be considered by this Court while deciding the writ petitions. The learned Special Government Pleader appearing on behalf of the State who had filed the review petitions in the first batch of cases contends that the cases originated in the light of a special situation when there was large scale encroachment in Munnar area and the impugned orders were passed after giving sufficient opportunity to the holders of land, who were in unauthorized occupation of the premises in question. The material facts which were brought to the notice of this Court were not considered in the proper perspective. By the impugned orders, the Government had cancelled the pattayams issued in favour of nine assignees. It is argued that all material averments made mention in the

counter affidavit were not considered.

4. The contentions now put forward by the review petitioners are based on extraneous facts which have no relevance to the facts in issue. The main issue which we have considered was regarding the jurisdiction of Government to cancel the patta. The said issue had been elaborately considered by the Division Bench in paragraphs 29 to 35 and it was found that the Government had no power under Rule 8(3) to exercise jurisdiction under the Kerala Land Assignment Rules. It is also found that the impugned orders were passed in violation of the principles of natural justice.

5. Nothing has been brought out in the review petitions to contend that there is any error apparent on the face of record as far as the aforesaid findings are concerned. Any writ petition for that reason has to be decided on its own facts and extraneous materials have no relevance in understanding and deciding the legal position in the matter. In the review petitions, the petitioners have virtually sought for a rehearing of the matter, which is not contemplated under Order XLVII of Rule 1 of the Code of Civil

RP No.746/14 & conn.cases

-:4:-

Procedure.

In the result, we do not find any ground to interfere with the common judgment in these cases and accordingly, these review petitions are dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge