

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE SMT. JUSTICE P.V. ASHA

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WA.No. 1926 of 2009 () IN WP(C).19743/2009

AGAINST THE JUDGMENT IN WP(C) 19743/2009 of HIGH COURT OF KERALA
DATED 20-07-2009

APPELLANT(S)/PETITIONER::

K.M.ALEXANDER, S/O.M.K.VARGHESE,
AGED 41 YEARS, KOIKAPARAMBIL HOUSE, PATHANAMTHITTA.

BY ADVS.SRI.B.G.BHASKAR
SRI.BIJU ABRAHAM

RESPONDENT(S)/RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, TRIVANDRUM.
 2. THE CUSTODIAN (ECOLOGICALLY
FRAGILE LANDS) & CHIEF CONSERVATOR OF
FORESTS (BIODIVERSITY), OFFICE OF THE
CHIEF CONSERVATOR OF FORESTS, TRIVANDRUM.
 3. THE CUSTODIAN OF VESTED FORESTS,
OLAVAKODE.
 4. THE DIVISIONAL FOREST OFFICER,
KOZHIKODE DIVISION.

R BY SRI.M.P.MADHAVANKUTTY, SPL.GP FOR FOREST

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 01-09-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & P.V.ASHA, JJ.

W.A.No.1926 of 2009

Dated this the 1st day of September, 2015

JUDGMENT

Antony Dominic, J.

1.Appellant filed W.P(C).19743/09 challenging the constitutional validity of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (hereinafter, the 'Act', for short). He also sought for a declaration that Ext.P4 notification issued under the Act, declaring his property as ecologically fragile land, is illegal. Similarly, a relief declaring the legality of Ext.P6 order passed under section 19(3)(b) of the Act and Ext.P8 order declining to review Ext.P4 notification were also sought for.

2.By judgment dated 20.7.2009, the learned single Judge disposed of the writ petition without going into the constitutional validity of the Act and relegating the appellant to pursue his remedies before the Tribunal constituted under Section 10 of the Act. It is aggrieved by this judgment, the appeal is filed.

3. We heard the counsel for the appellant and have considered the submissions made.

4. In so far as the main issue raised, viz., the constitutional validity of the Act, by judgment of the Division Bench of this Court in Planters Forum v. State of Kerala [2015 (2) KLT 783], the Act is already held to be constitutionally valid. Therefore, that contention raised by the appellant does not survive for consideration.

5. What remains is the challenge of the appellant against Exts. P4, P6 and P8. Necessarily, the challenge against the notification and the order passed under section 19(3)(b) of the Act will have to be raised before the Tribunal constituted under the Act. Therefore, we do not find any illegality in the order of the learned single Judge, relegating the appellant to pursue his remedies before the Tribunal. Appeal fails and is accordingly dismissed, however, giving the appellant three months' time from the date of receipt of a copy of this judgment, to move the

Tribunal in order to pursue his remedies against
Ext.P4 notification and Ext.P6 order.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
P.V.ASHA, Judge.

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/True copy/

PS to Judge