

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.HARIPRASAD

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

RSA.No. 359 of 2015 ()

AGAINST THE JUDGMENT AND DECREE IN AS NO.179/2005 of SUB
COURT,KOTTARAKKARA DATED 20-09-2014

AGAINST THE JUDGMENT AND DECREE IN OS NO.122/2003 of MUNSIF COURT,
PUNALUR DATED 15-06-2005

APPELLANT(S)/RESPONDENTS/LRS OF PLAINTIFFS:

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1. PRIYAKUMARI, AGED 52
PRIYISH BHAVANAM, URUKUNNU P.O, THENMALA VILLAGE
POATHANAPURAM TALUK
 2. PRIYADARSINI, AGED 28
PRABHURAJ BHAVAN, URUKUNNU P.O, THENMALA VILLAGE
PATHANAPURAM TALUK
 3. GEETHAPRIYA, AGED 24
ADHARSHA BHAVANAM, EDATHARAPACHA, EDAMON-34
EDAMAON P.O, THENMALA VILLAGE, PATHANAPURAM TALUK
 4. PRIYALATHA, AGED 20
RAJ BHAVAN, URUKUNNU P.O, THENMALA VILLAGE

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT(S)/APPELLANTS/DEFENDANTS:

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1. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
GOVERNMENT OF KERALA, SECRETARIAT
THIRUVANANTHAPURAM-695 001
 2. THE DIVISIONAL FOREST OFFICER,
FOREST OFFICE, THENMALA, KOLLAM DISTRICT-691 308
 3. FOREST RANGE OFFICER,
RANGE OFFICE, THENMALA, KOLLAM DISTRICT-691 308

BY GOVERNMENT PLEADER SHRI P.K.ABDUL RAHMAN

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON
26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.HARIPRASAD, J.

R.S.A. No.359 of 2015

Dated this the 26th day of May, 2015

JUDGMENT

Heard the learned counsel for the appellants and the learned Government Pleader.

2. The dispute is between State of Kerala, represented by the Divisional Forest Officer, Thenmala and a private individual. The appellants filed a suit for injunction simplicitor. After hearing learned counsel on both sides and on perusal of the impugned judgments, I am of the view that the question involved is as to whether the plaint schedule property is a vested forest or not. Section 8 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 deals with resolution of such questions. Section 13 of the said Act creates a bar of jurisdiction of civil courts in respect of any question which is required to be decided or dealt with or to be determined by the Tribunal constituted under the Act. Considering the entire facts and circumstances, I am of the view that this appeal is not maintainable.

3. Learned counsel for the appellants requested three months time to approach the Tribunal with a proper petition under Section 8 of the Kerala Private Forests (Vesting and Assignment) Act 1971.

The appeal is disposed with a finding that the same is not maintainable in a civil court and the remedy of the appellants lie before the Tribunal constituted under the Kerala Private Forests (Vesting and Assignment) Act 1971. The appellants shall approach the Tribunal within a period of three months and the Tribunal, untrammelled by any observations contained in this judgment, shall deal with the matter on merits and in accordance with law.

All pending interlocutory applications will stand dismissed.

A. HARIPRASAD, JUDGE.

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