

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

OP.No. 18467 of 2002 (S)

PETITIONER(S) :-

NATURE LOVER'S MOVEMENT,
THIRUVANKULAM (REG.NO.ER/459/93)
REP. BY THE PRESIDENT, M.K. SUBRAHMANIAN
AGED 38 YEARS, S/O. KRISHNAN, MAMALA P.O.
THIRUVANKULAM.

BY ADVS.SMT.DAISY THAMPI
SMT.MARY BEENA JOSEPH

RESPONDENT(S) :-

1. THE UNION OF INDIA REP. BY THE
SECRETARY TO GOVERNMENT, MINISTRY OF
ENVIRONMENT AND FORESTS, PARYAVARAN BHAVAN,
LODI ESTATE, NEW DELHI.
2. THE STATE OF KERALA REP. BY ITS
CHIEF SECRETARY, THIRUVANANTHAPURAM.
3. THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF FORESTS & WILD LIFE
THIRUVANANTHAPURAM.
4. THE SECRETARY TO GOVERNMENT
DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM.
5. THE PRINCIPAL CHIEF CONSERVATOR
OF FORESTS, FOREST HEAD QUARTERS, VAZHUTHAKKAD
THIRUVANANTHAPURAM.
6. THE CENTRAL BUREAU OF INVESTIGATION,
NEW DELHI REP. BY ITS DIRECTOR.

BY SPL.GOVERNMENT PLEADER SRI.M.P.MADHAVANKUTTY
BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON
04-09-2015, ALONG WITH O.P.1947/2003, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1 :- TRUE COPY OF THE LETTER DATED 8.7.1977 ISSUED BY THE ADDL.SECRETARY TO THE CHIEF CONSERVATOR OF FOREST.

EXT.P2 :- TRUE COPY OF G.O.(MS)No.218/78/AD DTD.14.8.1978.

EXT.P3 :- TRUE COPY OF THE CIRCULAR No.15/79 DTD.1.2.1979 ISSUED BY THE CHIEF CONSERVATOR OF FOREST.

EXT.P4 :- TRUE COPY OF THE LETTER No.44136/FGI/80/AD DTD.2.9.1980.

EXT.P5 :- TRUE COPY OF THE MINUTES OF THE DISCUSSION HELD JOINTLY BY MINISTER (REVENUE) & MINISTER (FOREST) ON 27.10.1982.

EXT.P6 :- TRUE COPY OF G.O.(MS)No.655/89/RD DATED 31.8.1989.

EXT.P7 :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED BY THE REVENUE INSPECTOR ON 2.10.91 ALONG WITH ITS TRANSLATION.

EXT.P8 :- TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN JOSEPH KURIAN AND DEVASSIA MICHEAL DTD.29.11.1996 ALONG WITH ITS TRANSLATION.

EXT.P9 :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED ON 4.10.1991 ALONG WITH ITS TRANSLATION.

EXT.P10 :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO MEENAKSHI ON 17.10.91 ALONG WITH ITS TRANSLATION.

EXT.P11 :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED TO DEVASSIA ON 15.10.91 ALONG WITH THE TRANSLATION.

EXT.P12 :- TRUE COPY OF THE POSSESSION CERTIFICATE ISSUED ON 16.10.91 TO ONE MR.GOVINDA PILLAI ALONG WITH ITS TRANSLATION.

EXT.P13 :- TRUE COPY OF THE POSSESSION CERTIFICATE GIVEN TO BABU JOHN ON 5.10.91.

EXT.P14 :- TRUE COPY OF THE ORDER No.(MS)No.487/85/RD DTD.15.5.85.

EXT.P15 :- TRUE COPY OF THE ORDER IN O.P.No.10797/84 DTD.17.3.1989.

EXT.P16 :- TRUE COPY OF THE REFERENCE ORDER IN O.P.No.10797/84 DTD.15.3.91.

EXT.P17 :- TRUE COPY OF THE ORDER IN O.P.No.10797/84 DTD.3.4.91.

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EXT.P18 :- TRUE COPY OF THE LETTER DTD.2.4.92 ISSUED BY THE 1ST RESPONDENT.

EXT.P19 :- TRUE COPY OF THE LETTER No.B-118/80 DTD.15.1.1998.

EXT.P20 :- TRUE COPY OF THE LETTER No.9241/C1/91/F & WLD DTD.11.8.92 ISSUED BY THE 3RD RESPONDENT TO 1ST RESPONDENT.

EXT.P21 :- TRUE COPY OF THE LETTER No.8-118/86/FC DTD.23.3.93.

EXT.P22 :- TRUE COPY OF THE LETTER No.8-118/86/FC DTD.8.12.95 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.

EXT.P23 :- TRUE COPY OF THE LETTER No.8-118/86/FC DTD.31.1.95 ISSUED BY THE 1ST RESPONDENT TO THE 3RD RESPONDENT.

EXT.P24 :- TRUE COPY OF THE REPORT SUBMITTED BY THE ASSURANCE COMMITTEE OF THE KERALA LEGISLATIVE ASSEMBLY ON 28.3.2000 ALONG WITH ITS TRANSLATION.

EXT.P25 :- TRUE COPY OF THE CIRCULAR No.36/97 DTD.17.10.87 ISSUED TO THE 5TH RESPONDENT.

EXT.P26 :- TRUE COPY OF G.O.(Rt)No.222/92/F & WLD DTD.15.6.92 ALONG WITH ITS TRANSLATION.

EXT.P27 :- TRUE COPY OF G.O.(MS)No.23/93/F & WLD DTD.15.3.93 ALONG WITH ITS TRANSLATION.

EXT.P28 :- TRUE COPY OF THE G.O.(MS)No.36/93/F&WLD DTD.19.5.93 ALONG WITH ITS TRANSLATION.

EXT.P29 :- TRUE COPY OF THE CIRCULAR No.11/97 ISSUED BY THE PRINCIPLE CHIEF CONSERVATOR OF FOREST ON 15.7.97.

EXT.P30 :- TRUE COPY OF THE PROCEEDINGS OF THE SPECIAL DEPUTY TAHSILDAR, CARDAMOM SETTLEMENT OFFICER, NEDUMKANDAM IN LC 27/94 DTD.27.4.95.

EXT.P31 :- TRUE COPY OF THE PROCEEDINGS OF THE CARDAMOM SETTLEMENT OFFICER, DEVIKULAM IN LC 63/98 DTD.30.12.98.

EXT.P32 :- TRUE COPY OF THE PROCEEDINGS OF THE CARDAMOM SETTLEMENT OFFICER, DEVIKULAM IN LC 64/98 DTD.30.12.98.

EXT.P33 :- TRUE COPY OF THE PROCEEDINGS OF THE CARDAMOM SETTLEMENT OFFICER, DEVIKULAM IN LC-27/99 DTD.16.7.99.

EXT.P34 :- TRUE COPY OF THE ORDER IN LC No.80/95 DATED 29.12.95.

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EXT.P35 :- TRUE COPY OF THE PROCEEDINGS OF THE CARDAMOM SETTLEMENT OFFICER, DEVIKULAM DATED 3.1.96.

EXT.P36 :- TRUE COPY OF THE LETTER No.92611/E2/99/REV. DATED 11.1.2000 ISSUED BY THE 4TH RESPONDENT ALONG WITH ITS TRANSLATION.

EXT.P37 :- TRUE COPY OF THE EXTRACT OF THE POWER OF ATTORNEY REGISTERED AS DOCUMENT No.153/1988 WITH ITS TRANSLATION.

EXT.P38 :- TRUE COPY OF ONE SUCH DOCUMENT BEARING No.68/89 DTD.27.12.1988 EXECUTED BY THE SECRETARY OF PALLIVASAL CO-OPERATIVE CARDAMOM PRODUCING SOCIETY.

EXT.P39 :- TRUE COPY OF THE MAHAZAR PREPARED BY THE REVENUE INSPECTOR ON 15.5.93.

EXT.P40 :- TRUE COPY OF PATTA ISSUED BY THE SPECIAL TAHSILDAR (LA) DEVIKULAM ON 4.8.93.

EXT.P41 :- TRUE COPY OF THE RECEIPT ISSUED BY THE PANCHAYAT.

EXT.P42 :- TRUE COPY OF THE SALE DEED EXECUTED BY SUDHA RAMASWAMY ON 9.7.1993.

EXT.P43 :- TRUE COPY OF THE MAHAZAR PREPARED BY THE REVENUE INSPECTOR ALONG WITH ITS TRANSLATION.

EXT.P44 :- TRUE COPY OF THE PATTA No.12754 ISSUED BY THE SPECIAL TAHSILDAR, DEVIKULAM ON 4.8.93.

EXT.P45 :- TRUE COPY OF THE SALE DEED No.2901/93 EXECUTED BY N.A.ANUS ON 1.12.93.

EXT.P46 :- TRUE COPY OF THE SALE DEED No.2902/93 EXECUTED BY N.A.ANUS ON 1.12.93.

EXT.P47 :- TRUE COPY OF THE SALE DEED No.721/93 EXECUTED BY N.A.ANUS ON 22.2.94.

EXT.P48 :- TRUE COPY OF THE LEASE DEED ISSUED IN FAVOUR OF S.CHINNA THAMPI, S/O.SANKARAN, SOORYANELLI ON 16.10.92.

EXT.P49 :- TRUE COPY OF THE DOCUMENT No.210.01 OF SUB REGISTRY OFFICE, RAJAKUMARI EXECUTED BY S.CHINNA THAMPI.

EXT.P50 :- TRUE COPY OF PATTA No.12811 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 2.9.93.

EXT.P51 :- TRUE COPY OF PATTA No.12812 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 2.9.93.

EXT.P52 :- TRUE COPY OF THE PATTA No.13220 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 5.11.93.

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EXT.P53 :- TRUE COPY OF THE PATTA No.13221 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 5.11.93.

EXT.P54 :- TRUE COPY OF THE PATTA No.13222 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 5.11.93.

EXT.P55 :- TRUE COPY OF THE PATTA No.13378 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 23.11.93.

EXT.P56 :- TRUE COPY OF THE PATTA No.13379 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 23.11.93.

EXT.P57 :- TRUE COPY OF THE PATTA No.13380 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 23.11.93.

EXT.P58 :- TRUE COPY OF THE PATTA No.13455 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 4.12.93.

EXT.P59 :- TRUE COPY OF THE PATTA No.13482 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 8.12.93.

EXT.P60 :- TRUE COPY OF THE PATTA No.13483 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 8.12.93.

EXT.P61 :- TRUE COPY OF THE PATTA No.13484 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 5.12.93.

EXT.P62 :- TRUE COPY OF THE PATTA No.14078 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 12.2.94.

EXT.P63 :- TRUE COPY OF THE PATTA No.14079 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 17.2.94.

EXT.P64 :- TRUE COPY OF THE PATTA No.14104 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 16.2.94.

EXT.P65 :- TRUE COPY OF THE PATTA No.14166 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 24.2.94.

EXT.P66 :- TRUE COPY OF THE PATTA No.14193 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 25.2.94.

EXT.P67 :- TRUE COPY OF THE PATTA No.14485 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 30.3.94.

EXT.P68 :- TRUE COPY OF THE PATTA No.14486 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 30.3.94.

EXT.P69 :- TRUE COPY OF THE PATTA No.14105 ISSUED BY THE SPECIAL TAHSILDAR (LA) ON 16.2.94.

EXT.P70 :- TRUE COPY OF THE COUNTER AFFIDAVIT IN O.P.No.10126/02 DTD.6.6.2002.

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EXT.P71 :- TRUE COPY OF THE LETTER SENT BY MR.K.E.ISMAIL TO THE 1ST RESPONDENT ON 6.12.99.

EXT.P72 :- TRUE COPY OF THE NOTIFICATION OBTAINED ON PAGE 1932 OF GAZETTE DTD.24.8.1897.

EXT.P73 :- TRUE COPY OF G.O.(MS)No.141/70/IRD DTD.12.5.1970.

EXT.P74 :- TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN V.V.THOMAS AND MAY ON 5.6.2000 ALONG WITH ITS TRANSLATION.

EXT.P75 :- TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN V.V.THOMAS & T.M.LEELA ON 5.6.2000 ALONG WITH ITS TRANSLATION.

EXT.P76 :- TRUE COPY OF THE AGREEMENT ENTERED INTO BETWEEN V.V.THOMAS & C.CHERIAN ON 5.6.2000 ALONG WITH ITS TRANSLATION.

EXT.P77 :- TRUE COPY OF THE ORDER IN O.P.No.6579/93 DTD.1.9.1992.

EXT.P78 :- TRUE COPY OF THE JUDGMENT IN O.P.No.6579/93 DTD.5.2.93.

EXT.P79 :- TRUE COPY OF THE JUDGMENT IN O.P.No.14629/94 DTD.5.12.94.

EXT.P80 :- TRUE COPY OF THE ORDER IN C.M.P.No.28373/97 IN O.P.No.15802/97 DTD.9.9.98.

EXT.P81 :- TRUE COPY OF THE RELEVANT EXTRACT OF THE REPORT SUBMITTED BY THE COMMITTEE IN W.P.No.202/95.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

O.P. No. 18467 OF 2002

and

O.P. No. 1947 OF 2003

Dated this the 4th day of September, 2015

JUDGMENT

Shaffique, J.

These two Original Petitions have been filed as Public Interest Litigations ventilating the problems relating to large scale encroachments into Government land especially lands which are treated as Reserved Forest. It is stated that the despite the promises made by Government of Kerala that they will prevent encroachments into forest land, no action has been taken in that matter and large scale encroachments continue to be made in various parts of the State.

2. In O.P. No. 18467 of 2002 reference has been made to Ext.P1 letter dated 08.07.1977 issued by the additional Secretary to the Chief Conservator of Forests regarding the policy decision of the Government. Ext.P1 reads as under:

"I am directed to inform you that the following policy decisions were taken in the discussions held by the Chief Minister on 27.06.1977 on the problems relating to forest encroachments:

1. No new encroachments will be allowed. All such attempt for encroachment from any quarters will be firmly dealt with.
2. All new encroachments after 01.01.1977 will be evicted.
3. At Kannamkuzhy and Vellakkarithadam in Pariyaram and Peechi Range where plantation programme has been obstructed in respect of 48.14 hectares and 22.24 hectares respectively planting need not be attempted now.
4. As regard to the encroachments prior to 01.10.1977 the policy will be considered and a decision will be taken later.

I am to request that further action may be pursued accordingly."

3. Petitioner submits that subsequent orders were also passed and a Circular dated 01.02.1979 had been issued by which instructions had been given to prevent all encroachments in the Forest area. It is stated that despite such instructions being issued from time to time, there had been complete inaction on the part of the officials in preventing encroachments, as a result of which large scale encroachments have been taken place in various forest areas of the State including Cardamom Hills. In the light of the above facts and circumstances the petitioner has approached this Court seeking the following reliefs:

"I. issue a writ of mandamus directing the 2nd respondent to survey and demarcate the forest lands notified as per Exhibit P6 and

to protect the land from further encroachment by putting up specific boundaries and jundas.

ii. Issue a writ of mandamus directing the 5th respondent to conduct an investigation with regard to the fabrication of documents, false registration of documents of title and grabbing of Government lands, using the same and about the mafia who work in Idukki District for this purpose.

lii. Issue a writ of certiorari calling for the records relating to Exhibit P9 and quash the same.

iv. Issue a writ of mandamus directing the 1st respondent to initiate proceedings as per section 3 of the Forest Conservation Act against the respondents 1 to 7 for abetting to the contravention of the provision 2 of the Forest Conservation Act, 1980.

v. grant such other reliefs that may be deemed fit to this Honourable Court in the interest of justice."

4. In O.P. No.1947 of 2003 the subject matter involved is with reference to encroachments in certain areas of forest land known as Mathikettan Mala. The reliefs sought in that Original Petition are as under:

"i. Issue a writ of mandamus directing the Central Bureau of Investigation to conduct a detailed investigation into the encroachment of Forest Lands, issuance of Ext.P9 to Ext.P13 and similar Possession Certificates, grant of Ext.P35 and similar Lease Deeds based on Ext.P30 to Ext.P34, the execution of Sale Deeds and other documents as per Ext.P37 by the members of

Pallivasal Co-operative Society and all other transactions based on the illegal Pattas and Lease Deeds after 01.10.1977.

ii. Issue a writ of mandamus, directing respondents 2 to 5 to evict all the persons who encroached into the Forest Lands in the State, after 01.01.1977 immediately.

lii. Issue a writ of certiorari calling for the records relating to Ext.P5 to Ext.P13, Ext.P26 to Ext.P28, Ext.P35 and the Lease Deeds issued on the basis of Ext.P30 to Ext.P34, the Sale deeds executed as per Ext.P37, Ext.P38 to Ext.P69 and quash the same as illegal.

iv. Issue a writ of mandamus directing the respondents 2 to 5 to inspect the Forest Lands for which Pattas had been granted pursuant to Ext.P23 to verify whether the trees reserved and appended along with the Pattas had been felled and to cancel the pattas, if any such trees had been felled and removed from such lands.

v. issue a writ of mandamus directing the 2nd respondent to conduct departmental enquiries with regard to the Officers of the Forest and Revenue Departments into the Government Lands who failed to prevent the encroachments and the felling of trees from such lands and to recover the loss caused to the State from the erring Officers.

vi. Issue a writ of mandamus directing the respondents 2 to 5 not to grant or renew any leases in the Cardamom Hill Reserve or in any Forest Lands without the prior concurrence from the Central Government."

5. During the pendency of O.P. No.18467 of 2002, this Court had passed an interim order dated 10.08.2011 calling upon

the State to file further affidavits regarding the efforts taken by them to identify the encroachments and furnish details regarding the same. The said interim order reads as under:

"The original petition is filed with as many as seven prayers. However, today, when the matter is taken up for hearing, the learned Counsel for the petitioner, Smt.Daisy A. Phillipose submitted that the petitioner would be satisfied if the reliefs sought in prayer Nos.2, 4 and 5 are considered by this Court.

2. The substance of the Original Petition is that large scale encroachments of forest lands are taking place in the State of Kerala over a period of time, notwithstanding the existence of various laws purporting to protect and preserve the forest lands in the State of Kerala including the law made by the Parliament, i.e., the Forest (Conservation) Act, 1980. For the purpose of the present order, it may not be necessary for us to go into the full details of the litigation except to state that it is not for the first time that such litigation is being considered by this Court, but at least on two occasions earlier, this Court considered the question and issued certain directions in order to prevent encroachment of forest lands.

3. An elaborate counter affidavit has been filed by the State of Kerala explaining the various laws operating in the State of Kerala for the protection of forest and forest produce. The counter affidavit also furnishes some data regarding the extent of forest land and the classification of various forests etc.

4. An extent of 28,588 hectares of forest land was admittedly encroached in the State of Kerala prior to 01.01.1977

and such encroachment had already been regularised by the State as well as the Union of India, in exercise of the various statutory powers vested in them.

5. However, subsequent to 01.01.1977, the encroachment of forest areas continued and according to the counter affidavit filed by the State, an extent of 11917.8952 hectares has been encroached in various areas, the details of which are incorporated in paragraph No.26 of the counter affidavit. Of the above mentioned extent, according to the counter affidavit, an extent of 4628.5555 hectares has already been cleared of encroachment, thus leaving a balance of 7289.3377 hectares of forest land still under encroachment.

6. Though the counter affidavit mentions about various difficulties faced by the State in effecting expeditious eviction of the encroachers of the above mentioned area, the affidavit is silent regarding the details of encroachers of the above mentioned area, such as number of encroachers, names and address of the encroachers and the extent encroached by each one of such encroachers, etc. It is not very clear from the affidavit whether any effort has already been made for identification of such encroachers.

7. In the said circumstance, we deem it appropriate to call upon the State to file a further affidavit explaining :

(i) whether any effort has already been made to identify the encroachers of the above mentioned extent of forest lands and if such an effort has already been made, furnish the details collected by the State so far regarding the names of the encroachers, the extent occupied by each one of the encroachers and also the legal action, if any initiated to evict the encroachers;

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-:7:-

(ii) if no such effort is made so far, furnish the reasons for such inaction and also the stand of the State as to how the State proposes to identify such encroachers.

The said affidavit shall be filed on or before 01.09.2011. List the matter on 02.09.2011 for further orders."

6. Pursuant to the said interim order an affidavit dated 23.09.2011 is filed on behalf of the 2nd respondent *inter alia* giving certain particulars regarding encroachments prior to 01.01.1977 and after 01.01.1977. It is stated that an extent of 11917.8952 hectares of forest land was encroached after 01.01.1977 and that encroachers in an extent of 4628.5555 hectares had been evicted. However, encroachments in respect of 7289.337 hectares of land could not be evicted. It is stated that all efforts were made to identify the encroachments, to assess the extent of lands held by each of them and to evict the encroachers. Further it is indicated that the efforts taken to evict the encroachers have not met with the desired level of success due to various reasons such as opposition by social and as well as political groups in the locality. It is also stated that where encroachments are in excess, strong decision was taken which also resulted in law and order situation.

7. The respondent has also produced a list containing the details of encroachments and the names of the persons with full particulars regarding the encroachments. By another interim order dated 25.05.2012 this Court had called upon the 2nd respondent to file another affidavit detailing the action taken in this regard and an affidavit dated 27.10.2012 has been filed in which also while reiterating the factual circumstances stated in the earlier affidavit it was stated that the a State Level Monitoring Committee has been constituted and a meeting was held on 28.10.2011 and that, meetings are being held in various forest areas to monitor the eviction process. It is also stated that steps are being taken to regularise the occupation of forest land by tribal families and that process also had been continued.

8. It is argued on behalf of learned counsel for the petitioner that despite providing details regarding the encroachments in forest land it is an admitted fact that no action is forthcoming from the part of the Government authorities. Still encroachments are being continued and unless eviction steps are taken in the matter by Government, which even according to the Government is their policy, no result is forthcoming.

9. Learned Special Government Pleader appearing on behalf of the Government however would submit that all necessary steps have been taken by the Government as envisaged under various statutes to prevent encroachments into forest areas and steps have already been initiated for evicting the encroachers. It is also pointed out that in certain areas where there is large scale encroachments, there had been law and order situations, by which the authorities were prevented from taking further action in the matter. It is therefore stated that necessary meetings are being convened by the Committee constituted for the above purpose and appropriate action has been taken in the matter.

10. Having regard to the factual circumstances as narrated in the Original Petitions, the counter affidavits filed in this behalf and also after hearing learned counsel appearing for either side, we are of the view that it is an admitted fact that there have been encroachments in the forest land and even according to Government the extent of land encroached is more than 7000 hectares, it is the obligation of the Government to

ensure that the encroachers are evicted in a time bound manner. If at all Government requires regularisation of any encroachments, it can be done only after getting permission from Central Government as the land is forest land coming within the meaning of forest defined under the Forest (Conservation) Act, 1980. In the absence of any such permission from the Central Government, assignment of such land in favour of encroachers becomes impossible and hence the Government is bound to take necessary steps to evict such encroachers.

11. Under such circumstances in the absence of any such permission from the Central Government to assign such land in favour of the encroachers who are illegally occupy lands, the Government is bound to take necessary steps to evict such encroachers. Though several affidavits have been filed before this Court, there is no mention that any proceedings had been initiated under the Land Conservancy Act, or the Kerala Forest Act, 1961 though the details of encroachers are available with the Government.

12. In the result, we are of the view that the Original Petitions can be disposed of as follows:

Government shall take necessary steps to initiate proceedings under the Kerala Land Conservancy Act, 1957 along with the Kerala Forest Act, 1961 to remove the encroachments from the forest land after issuing statutory notice to the encroachers and passing appropriate orders in accordance with the procedure prescribed. This process shall be initiated within a period of six months from the date of receipt of a copy of this judgment and shall be completed within a further period of six months.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**