

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

WA.No. 505 of 2015 () IN WP(C).2864/2015

AGAINST THE JUDGMENT IN WP(C) 2864/2015 of HIGH COURT OF
KERALA DATED 29-01-2015

APPELLANT(S)/PETITIONER :

T.ASHOK KUMAR
S/O. GANGADHARAN NAIR, VI/C, SREEDHANYA CASTLE
KAVADIYAR, THIRUVANANTHAPURAM.

BY ADVS.SRI.M.RAMESH CHANDER (SR.)
SRI.P.RAGHUNATH
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE

RESPONDENT(S)/RESPONDENTS :

1. STATE OF KERALA
REP.BY THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
FOREST DEPARTMENT, THIRUVANANTHAPURAM-695 001.

2. THE CHIEF CONSERVATOR OF FOREST
(CUSTODIAN BIO-DIVERSITY ECOLOGICALLY
FRAGILE LANDS), AZHUTHAKKAD,
THIRUVANANTHAPURAM-695 014.

3. DIVISIONAL FOREST OFFICER
SOUTH WAYANAD DIVISION, KALPETTA-673 121.

BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR FORESTS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
02-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK BHUSHAN , Ag. CJ,
&
A.M.SHAFFIQUE, J.

.....
W.A. No. 505 of 2015
.....

Dated this the 2nd day of March, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ

Heard the learned counsel for the appellant.

2. This Writ Appeal is filed against the judgment dated 29th January, 2015 in W.P.C. No. 2864 of 2015 . The learned Single Judge disposed of the Writ Petition in terms of the earlier judgment dated, 17-11-2014 of the Division Bench in W.P.C. No. 26691 of 2010 and connected cases.

3. In paragraph 4 of the judgment, the following has been held:-

“iv) Petitioners who have challenged the Notifications issued under Sec. 3 of the Act are also allowed one

month's time to submit an application under Section 10 (1) and 10A as the case may be to the Tribunal which may be considered and decided by the Tribunal in accordance with the law expeditiously within a period of six months from the date of submitting the applications”.

4. Learned counsel for the appellant submitted that in view of the admitted facts that the cardamom plantation ought not to have been notified under Sec. 3 of the Kerala Forest (Vesting & Management of Ecologically Fragile Lands) Act, 2003 (“EFL Act” for short). He further submits that the only power which could have been exercised was to issue notice under Sec. 4 of the EFL Act, 2003.

5. We have considered the submission and perused the records.

6. The question as to whether the notification notifying under Sec. 3 was valid or not and whether there was ample evidence to prove that it was not an ecologically fragile land are questions of fact which has to be considered by the statutory forum provided under the Act. We do not find any error in the

judgment of the learned Single Judge disposing of the Writ Petition in terms of the judgment of the Division Bench dated 17th November, 2014.

Accordingly, thus Writ Appeal is dismissed.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/- A.M.SHAFFIQUE,
JUDGE

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