

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

WEDNESDAY, THE 8TH DAY OF APRIL 2015/18TH CHAITHRA, 1937

WP(C).No. 2330 of 2010 (M)

PETITIONER

VAIGAI THREAD PROCESSORS (P) LTD,
KORATTI, REPRESENTED BY WHOLE TIME DIRECTOR.

BY ADVS. SRI. K. ANAND (A.201)
SMT. LATHA KRISHNAN

RESPONDENT(S):

1. GOVERNMENT OF KERALA, REPRESENTED BY
SECRETARY, REVENUE (L) DEPARTMENT, GOVT. SECRETARIAT
THIRUVANANTHAPURAM.
2. DISTRICT COLLECTOR, THRISSUR.
3. ADDL. TAHSILDAR, MUKUNDAPURAM,
IRINJALAKUDA.

R1 TO R3 BY SPL. GOVERNMENT PLEADER SMT. SUSHEELA R. BHAT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12.1.2015,
THE COURT ON 08-04-2015, DELIVERED THE FOLLOWING:

APPENDIX IN WPC.2330/10

PETITIONER'S EXTS:

- EXT.P1: COPY OF ORDER NO.GO.MS.122/98 DT.5.3.98 IN FAVOUR OF THE PETITIONER.
- EXT.P2: COPY OF GOVT.ORDER NO.GO.RT.5260/98/RD DT.21.2.98.
- EXT.P3: COPY OF JUDGMENT DT.10.12.03 IN WPC.38833/03.
- EXT.P4: COPY OF OBJECTIN DT.7.2.07 FILED BY THE PETITIONER.
- EXT.P5: COPY OF ORDER NO.GO(MS)NO.265/07/REVENUE DT.13.7.07.
- EXT.P6: COPY OF ORDER DT.19.2.09 OF THE DISTRICT COLLECTOR.
- EXT.P7: COPY OF JUDGMENT DT.3.6.09 IN WPC.11898/09.
- EXT.P8: COPY OF ORDER GO(MS)NO.503/09/RD DT.7.12.09.
- EXT.P9: COPY OF NOTICE DT.18.12.09 OF THE 3RD RESPONDENT.

RESPONDENTS' EXTS: NIL

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.2330 Of 2010

DATED THIS THE 8th DAY OF APRIL, 2015

JUDGMENT

The petitioner is a company registered under the Companies Act, 1956 having a textile mill at Muringoor, Thekkumuri Village in Mukundapuram Taluk, in the leasehold land covered by Ext.P1 Government order. The said land was leased out to M/s Jamuna Thread Mills Ltd. by the erstwhile Government of Travancore-Cochin as per lease deeds dt.10.11.1950 and 27.4.1956. The name of the said company was later changed as M/s. Coats Viella India Ltd. Still later, the textile mill was sold to the petitioner-Company as a going concern as per sale deed dt.28.1.1994. Thereafter the petitioner-Company and M/s Coats Viella India Ltd. jointly filed application before the Government, the 1st respondent herein, seeking sanction to transfer the leasehold rights and the same was granted by Ext.P1 for a period of 55 years fixing the lease rent at ₹50,000/- per annum, which shall be revised in every five years in accordance with the provisions of the existing law, on the basis of the market value prevailing from time to time. Later, the 1st respondent by

Ext.P2 has exempted 3.61 Acres of land transferred to NH-47 and a further extent of 1.11³/₄ Acres of land which lies on the opposite side of NH-47 from the land leased out to the petitioner as per Ext.P1 Government Order. After Ext.P2, the petitioner is in possession of an extent of 81.24¹/₂ Acres of land on a lease rent of ₹50,000/- per annum.

2. The District Collector, Thrissur has issued a notice to the petitioner seeking its explanation regarding cutting and removing of trees in the factory premises. The petitioner submitted its explanation and produced supporting documents. The allegation made in the said notice is that the petitioner had cut and removed trees worth ₹4,33,440/- from the leasehold property. According to the petitioner, it had cut and removed only those trees which were standing in dangerous condition and which were causing hardship to neighbouring residents. The petitioner had approached this Court in W.P.(C)No.38833/2003 aggrieved by the action of the respondents in directing it to pay a sum of ₹4,33,440/- for unauthorised cutting and removal of trees standing in the leasehold property.

3. By Ext.P3 judgment, the said Writ Petition was

disposed of directing the respondents to decide the liability, if any, of the petitioner after considering the detailed objection to be filed by the petitioner and after affording it an opportunity to substantiate its objections. The petitioner submitted Ext.P4 objection. While so, the petitioner received Ext.P5 order informing that out of the lease hold land 46.43 Acres has been resumed after cancelling the lease. The petitioner was also directed to remit a sum of ₹4,33,000/- towards the value of trees cut and removed from the leasehold land. Ext.P5 was followed by Ext.P6 proceedings of the District Collector by which the petitioner has been directed to remit a sum of ₹4,33,400/-.

4. The petitioner challenged the said order before this Court in W.P.(C)No.11898/2009, which writ petition was disposed of by Ext.P7 judgment setting aside Ext.P5 Government Order and the Government was directed to pass fresh orders after considering the objections submitted by the petitioner. Thereafter, the Government issued Ext.P8 order confirming the levy of fine and the District Collector was directed to take further action in the matter. Pursuant to the said order, the Tahsildar has issued Ext.P9 notice directing the petitioner to remit

₹4,33,440/- within 15 days from the date of receipt of notice, failing which revenue recovery proceedings will be initiated against the petitioner. It is aggrieved by Exts.P8 and P9, the petitioner has approached this Court in this Writ Petition seeking various reliefs.

5. By order dated 25.1.2010, this Court granted an interim stay as prayed for, for a period of six weeks on condition of the petitioner remitting an amount of ₹1,00,000/- within four weeks. But the said order of stay was vacated by this Court on 8.7.2010 and the said order reads thus:

"The petitioner seeks extension of stay. Stay is against Ext.P8 order, by which the petitioner has been directed to pay value of the trees cut by them from the land allotted to them. Admittedly, the trees belong to the Government. Admittedly, the petitioner has cut the same. That being so, I do not think that the interim stay should be continued. Accordingly, the interim stay is vacated."

6. A counter affidavit has been filed on behalf of the 2nd respondent contending, inter alia, that the demand made in Ext.P8 is perfectly legal. According to the 2nd respondent, the petitioner had cut and removed nearly 69 trees from the leasehold land including sandal wood. The land mahazar

prepared by the concerned Village Officer shows that the trees cut and removed by the petitioner included some valuable trees such as sandal wood and mahagony and the fine of ₹4,33,400/- is fixed on the basis of the wood content in each tree, as assessed by the concerned Department Officials. The counter further states that the trees which had been cut and removed by the petitioner without permission were also under the schedule of protected trees.

7. To the counter affidavit filed on behalf of the 2nd respondent, the petitioner has filed a reply affidavit contending that the 1st respondent has not complied with the direction contained in Ext.P7 judgment, inasmuch as, no fresh orders have been passed by the 1st respondent as directed by this Court.

8. Heard arguments of the learned counsel for the petitioner and also the learned Special Government Pleader appearing for the respondents.

9. The learned counsel for the petitioner contended that the finding in Ext.P9 that the petitioner had cut and removed trees standing on the leasehold land resulting a loss to the Government to the tune of ₹4,33,400/- is without any basis and

on that ground Ext.P8 order has to go. Per contra, the learned Special Government Pleader appearing for the respondents would contend that Ext.P8 Government Order is perfectly legal and no interference is called for.

10. I have considered the rival submissions made at the Bar.

11. The petitioner is having leasehold right over the land covered by Ext.P1, which is in continuation of the original lease granted in favour of its predecessor-in-interest, based on lease deeds dated 10.10.1950 and 27.4.1956, executed by the erstwhile Government of Travancore-Cochin. The allegation made against the petitioner is that it had unauthorisedly cut and removed nearly 69 trees such as sandal wood, acacia, vengal, etc., from the lease hold land in the year 2001. Immediately a joint verification was conducted along with Forest authorities and the loss sustained by the Government was estimated at ₹4,33,440/-. The notice initially issued to the petitioner was set aside by this Court in W.P(C)No.38833/2003.

12. Pursuant to the direction contained in that judgment, the Government issued Ext.P5 order, which was again challenged

in W.P.(C).No.23153/2007. The said Writ Petition was disposed of by Ext.P7 judgment directing the Government to take a final decision after affording an opportunity of being heard to the petitioner. Thereafter, the District Collector heard the petitioner and passed Ext.P6 order, which was under challenge in W.P.(C). No.11898/09. Pursuant to the direction contained in Ext.P7 judgment, the Government afforded an opportunity of being heard to the petitioner. During the hearing, it was contended on behalf of the petitioner that the trees were cut and removed some time between 2000-02 and that going by the lease agreement, the lessee has right to remove/cut the trees. It was also contended that only soft wood trees have been cut and that the total value of the trees fixed is too high and that the basis for calculation is not indicated and that only those trees which were threat to life and property have been removed.

13. As contended by the 3rd respondent, the mahazar prepared indicates that the trees cut and removed included sandal wood and mahagony and that fine has been worked out based on value of each tree and that the calculation was also made available to the petitioner. From the documents on record,

it is evident that protected trees have been cut and removed by the petitioner without permission and the basis for valuation has also been explained to the petitioner. It was in such circumstances, the Government in Ext,P8 concluded that, the levy of fine is in order and therefore, confirmed the same and the District Collector was directed to take further action in the matter.

14. The findings of fact to that effect in Ext.P8 order cannot be termed either perverse or arbitrary warranting interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

I find no merit in the contention raised in the Writ Petition and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA,
JUDGE

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