

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

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WA.No. 1292 of 2014 () IN WP(C).8023/2013

AGAINST THE JUDGMENT IN WP(C) 8023/2013 of HIGH COURT OF
KERALA DATED 05-12-2013

APPELLANT(S)/PETITIONERS IN W.P.(C) :-

1. MATHAI.P.J., AGED 61 YEARS, S/O.JOSEPH,
PUTHENPARAMBIL HOUSE, KURICHI,
CHANGANASSERY, KOTTAYAM.
2. P.J.JOHN, PUTHENPARAMBIL, KURICHI,
CHANGANASSERY, KOTTAYAM, NOW RESIDING AT
PUTHENPARAMBIL HOUSE, CHANNANIKADU.P.O.,
PANICHIKADU, KOTTAYAM.
3. ANNAMMA P.J., PUTHENPARAMBIL, CHINGAVANAM P.O.,
KOTTAYAM.
4. AMMINI P.J., PUTHENPARAMBIL, CHINGAVANAM P.O.,
KOTTAYAM.
5. OMANA P.J., PUTHENPARAMBIL, CHINGAVANAM P.O.,
KOTTAYAM.
6. JOSEPH, PUTHENPARAMBIL, CHINGAVANAM P.O.,
KOTTAYAM.
7. MATHAI P.J., PUTHENPARAMBIL, KURICHI,
S.PURAM P.O., KOTTAYAM.
8. JACOB P.J., PUTHENPARAMBIL HOUSE, CHINGAVANAM P.O.
KOTTAYAM.
9. VARGHESE P.J., PUTHENPARAMBIL HOUSE, KURICHI,
KOTTAYAM.
10. THANKACHAN P.J., PUTHENPARAMBIL HOUSE,
KURICHI, KOTTAYAM.
11. KRISHNANKUTTY, PUTHENPARAMBIL HOUSE, KURICHI,
KOTTAYAM.

12. REJI, S/O.JOHN, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
13. PONNAMMA, D/O.VARKEY, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
14. MATHEW, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
15. CHINNAMMA, W/O.JOSHUA, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
16. SIBY JOSEPH, S/O.PAULOSE, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
17. JOHN, S/O.MATHAI, PARAVATHARA HOUSE, KURICHI, KOTTAYAM.
18. MARY, W/O.PHILIPOSE, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
19. ACHAMMA, W/O.JOSEPH, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
20. KUNJUNJAMMA, W/O.MATHAI, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
21. MATHEW, S/O.JOSEPH, PUTHENPARAMBIL HOUSE, KURICHI, KOTTAYAM.
22. ELIAMMA, W/O.YOHANNAN, PARAVATHARA, KURICHI, KOTTAYAM.
23. RAJU, S/O.MARY, PARAVATHARA, KURICHI, KOTTAYAM.
24. ELIAMMA, W/O.MATHAI THOMAS, PARAVATHARA HOUSE, KURICHI, KOTTAYAM.

BY ADV. SRI.A.X.VARGHESE

RESPONDENT(S)/RESPONDENTS IN WP(C) :-

1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE DISTRICT COLLECTOR, KOTTAYAM, PIN - 686 002.
3. TECIL CHEMICALS AND HYDRO POWER LIMITED, REPRESENTED BY ITS MANAGING DIRECTOR, S.B.SOMANI, EMPIRE HOUSE, 3RD FLOOR, 311, DR.D.N.ROAD, FORT MUMBAI, PIN - 400 001.

4. TECIL CHEMICALS AND HYDRO POWER LIMITED,
REPRESENTED BY ITS GENERAL MANAGER, M.G.VIJAYAN,
CHINGAVANAM P.O., KOTTAYAM, PIN - 686 002.
5. RAMABHADRAN.K., S/O.C.K.KUNJUPILLAI HASSAN,
14 PALM GREEN VILLAS, VYTTILA, KOCHI, PIN-682 019.

R1 & R2 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS
R4 BY ADV. SRI.MATHEWS K.UTHUPPACHAN
SRI.TERRY V.JAMES

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 28-
01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

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

W.A. No.1292 of 2014

Dated this the 28th day of January 2015

J U D G M E N T

Ashok Bhushan, Ag.CJ

Heard the learned counsel for the appellants.

2. This writ appeal has been filed against the judgment dated 5.12.2013 passed by the learned Single Judge in W.P.(C) No.8023 of 2013, by which judgment, the writ petition filed by the appellants has been dismissed. The petitioners, who had executed a sale deed of their property to the 3rd respondent in the year 1979 had come up in the writ petition seeking the following reliefs :-

- “i) Issue a writ of mandamus or appropriate writ, order or direction, directing the 1st respondent to consider Ext.P3 representation submitted by the petitioners in accordance with law after affording an opportunity of hearing to the petitioners within a time bound manner;
- ii) Issue such other reliefs that this Hon'ble Court deems fit and proper in the facts and circumstances of the case.”

3. Petitioners' case in the writ petition is that respondent No.3 to whom they have transferred their properties had declared a lock out in the year 1999 and a

decision was taken in the year 2010 to sell the plant and machinery together with other equipments and scrap. The petitioners submitted a representation dated 22.2.2013, Ext.P3 to the State Government, where a request was made that the respondent No.3 be restrained from alienating the aforesaid land and the aforesaid land be acquired by the Government for other public purpose by providing the present value of the land to the petitioners or to take necessary action to re-convey the said land to them. Learned Single Judge, after noticing the prayer made in the representation took the view that they have executed sale deeds to the 3rd respondent way back in 1981, 1990 and 1994 and the land has not been acquired under the relevant provisions of the Land Acquisition Act. The person from whom the said property was taken cannot have any further right, either to have re-conveyance of the property or for any other relief. The learned Single Judge dismissed the writ petition.

4. Sri.A.X.Varghese, the learned counsel appearing for the appellants submitted that the value of the property has increased upto 200% and although, the property was acquired by obtaining sale deeds from the petitioner, but the 3rd

respondent since is not using the property for the purpose it was acquired, hence, the petitioners are entitled to the relief claimed in the representation. It is submitted that the Government should interfere in the matter on humanitarian consideration and the representation shall be directed to be considered by the State Government.

5. We have heard the submissions made by the learned counsel for the appellants and perused the records.

6. There is no dispute that petitioners have executed sale deeds transferring their properties in favour of the 3rd respondent more than two decades ago. The Industrial Unit had started but subsequently, it was locked out on 5.7.1999. The Board of Directors of the 3rd respondent had taken a decision in the year 2010 to transfer the property and other machineries etc. At that juncture, the petitioners have filed a representation to the State Government. When the property was sold by a deed of transfer between two private individuals, we do not find any right on the State Government to consider the request made by the petitioners for re-conveyance or to give enhanced value of the property to the petitioners. Admittedly, the sale deeds were never challenged

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on any ground. Learned Single Judge had rightly held that the relief, which was claimed in the writ petition cannot be granted.

7. The submission made by the learned counsel for the appellants that the State may be directed to consider the representation on humanitarian ground has no legs to stand. Unless the representation is referable to any statutory provision, no direction can be issued to the State Government to consider the representation. At best, it is open for the petitioners to agitate their right, if any, in the civil court and the writ petition has rightly not been entertained by this Court.

With this observation, this writ petition is dismissed.

Sd/-
ASHOK BHUSHAN
Ag. CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE