

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 1360 of 2015 (T)

PETITIONER:

**SUJITH KUMAR, AGED 42,
S/O. PENOTHIL SAHADEVAN,
"BHUVANA", 33/5396, THAZHAM,
CHITADIPARAMBIL, CHEVAYOOR,
KOZHIKODE - 673 017.**

BY ADV. SRI.E.NARAYANAN

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST, SECRETARIAT,
TRIVANDUM - 695 001.**
- 2. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
(CUSTODIAN - BIO DIVERSITY
ECOLOGICALLY FRAGILE LANDS),
FOREST HEAD QUARTERS, VAZHUTHAKKAD,
TRIVANDRUM - 695 014.**
- 3. THE DIVISION FOREST OFFICER,
SOUTH WAYANAD DIVISION, PINANGOD ROAD,
ALPETTA, WAYANAD - 673 121.**
- 4. THE CHIEF CONSERVATOR OF FORESTS,
NORTHERN CIRLE, KANNUR, KANNUR P.O. - 670 012.**

**BY GOVERNMENT PLEADER SRI.K.C.VINCENT
BY SRI.M.P.MADHAVANKUTTY,(SPL. GOVT. PLEADER FORESTS)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 27-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 1360 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - TRUE COPY OF SEC. 3(2) NOTIFICATION DATED 03.12.13.
- P2 - TRUE COPY OF THE APPLICATION DATED 10.5.14 PREFERRED BY THE PETITIONER UNDER SECTION 10 A OF THE KERALA FOREST (VESTING AND MANAGEMENT OF ECOLOGICALLY FRAGILE LANDS), ACT, 2003 TO THE SECOND RESPONDENT.
- P3 - TRUE COPY OF THE LETTER DATED 18.6.14 REJECTING THE EXT. P2 APPLICATION ON TECHNICAL GROUNDS ISSUED BY THE SECOND RESPONDENT TO THE PETITIONER.
- P4 - A TRUE COPY OF THE APPLICATION DATED 21.7.14 SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT UNDER SECTION 10A OF THE KERALA FOREST (VESTING AND MANAGEMENT OF ECOLOGICALLY FRAGILE LANDS), ACT 2003.
- P5 - TRUE COPY OF THE REPLY DATED 27.9.14 ISSUED FROM THE OFFICE OF THE SECOND RESPONDENT REJECTING EXT. P4 APPLICATION PREFERRED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

P.A. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 1360 of 2015

Dated this the 27th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

“1. Issue a writ of certiorari or any other appropriate order, writ or direction quashing Ext.P5.

2. Issue a writ of mandamus or any other appropriate writ or order directing the second respondent to receive Ext.P4 on file and to dispose off the same in accordance with law.”

2. The grievance of the petitioner is with regard to Ext.P5 reply dated 27.09.2014, whereby the application preferred by the petitioner on 21.07.2014 for settlement of dispute in tune with the relevant provisions of the Kerala Forests (Vesting and Management of Ecologically Fragile Lands) Act, 2003 stands rejected as belated.

3. Heard the learned Special Government Pleader as well, who points out that, pursuant to Ext.P1 notification issued by the competent authority under Section 3(2) of the Kerala Forests (Vesting and Management of Ecologically Fragile Lands) Act,

2003, Ext.P2 application was preferred by the petitioner under Section 10 A of the Act. This was returned to the petitioner as per Ext.P3 pointing out certain defects and observing that, the application, if at all to be considered, could only be considered after curing the defects. It is also stated that, the petitioner has cured the defects as per Ext.P4 dated 21.07.2014 and this application has been referred to in Ext.P5 rejecting the same.

4. This Court finds that Ext.P2 application preferred by the petitioner has not been referred to in Ext.P5. The defects contained in the said application have been enlisted in Ext.P3 and on receipt of the same, the defects were cured by the petitioner and resubmitted the application vide Ext.P4 in the prescribed form.

5. After hearing both the sides, this Court finds that the matter requires to be reconsidered by the competent authority and hence Ext.P5 is set aside. The 2nd respondent is directed to reconsider the matter forming the subject matter of Ext.P4, with reference to the earlier proceedings including Ext.P2 and P3 and pass appropriate orders in accordance with law, after affording an

opportunity of hearing to the petitioner. After taking necessary steps, the proceedings have to be forwarded to the competent authority with necessary endorsement/remarks and it is for the said authority to have the matter finalized in terms of the relevant provisions of law. This shall be done after affording an opportunity of hearing to the petitioner, as expeditiously as possible.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps. The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-