

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHMED MUSTAQUE

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

WP(C) .No. 1490 of 2015 (I)

PETITIONER(S) :

MOHAMMED ALI,
S/O.KUNHIAHAMMED MUSLIAR, CHALIL HOUSE,
KUTTALLOOR AMSOM, MALAPPURAM DISTRICT,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
K.B.SIDDICK, S/O.BUKHARY, PADATHU,
KILLIPARAMBIL HOUSE, NETTOOR P.O., MARADU,
ERNAKULAM DISTRICT.

BY ADV. SRI.V.PHILIP MATHEW.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FOREST AND WILD LIFE,
KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM,
PIN-695 001.
2. PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE, KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
3. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
AND HEAD OF FOREST FORCES,
THIRUVANANTHAPURAM-695 001.
4. THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS (PLANNING),
OFFICE OF THE ADDITIONAL PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(PLANNING), EASTERN CIRCLE AND CUSTODIAN OF VESTED FORESTS,
OLAVAKKODE, PALAKKAD DISTRICT-678 002.
5. DISTRICT COLLECTOR,
PALAKKAD-678 001.
6. THE DIVISIONAL FOREST OFFICER,
PALAKKAD-678 001.
7. VILLAGE OFFICER,
KONGAD II VILLAGE, KONGAD, PALAKKAD DISTRICT-678 631.

BY SPECIAL GOVERNMENT PLEADER SRI.M.P.MADHAVANKUTTY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : TRUE COPY OF SALE DEED NO.2599/93.
- EXT. P2 : TRUE COPY OF THE SALE DEED NO.2600/93.
- EXT. P3 : TRUE COPY OF THE SALE DEED NO.2603/93.
- EXT. P4 : TRUE COPY OF THE SALE DEED NO.634/72.
- EXT. P5 : TRUE COPY OF THE SALE DEED NO.2603/93.
- EXT. P6 : TRUE COPY OF THE COMMON ORDER DT.30-5-2006 PASSED BY THE FOREST TRIBUNAL, KOZHIKODE IN OA 32/04, OA 33/04, OA 34/04 AND OA 35/04.
- EXT. P7 : TRUE COPY OF THE COMMON JUDGMENT DT.14-3-13 PASSED BY THIS HON'BLE COURT IN MFA 3/2007, 4/2007, 5/2007 AND 262/09.
- EXT. P8 : TRUE COPY OF THE REPRESENTATION DT.18-10-13 SUBMITTED BY THE PETITIONER ALONG WITH 3 OTHERS BEFORE R4.
- EXT. P9 : TRUE COPY OF THE RECEIPT DT.18-10-13 ISSUED FROM THE OFFICE OF R3.
- EXT. P10 : TRUE COPY OF THE REPRESENTATION DT.21-10-13 SUBMITTED BY THE PETITIONER AND 3 OTHERS BEFORE R7.
- EXT. P11 : TRUE COPY OF THE COMMUNICATION DT.7-11-13 ISSUED BY R7.
- EXT. P12 : TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN WPC 727/13.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 1490 of 2015

Dated this the 14th day of September, 2015

J U D G M E N T

The petitioner based on Ext.P6 in W.P(C) No.31856/2013 and Ext.P8 in W.P(C)No.727/2014 judgment of this Court submits that this Court has declared that the properties situated in Sy.Nos.277/1, 296/6,284/4,277/2 and 294/2 of Kongad Village are not forest lands. In view of the above, petitioner submits that the revenue officials are bound to accept basic tax from the petitioner. The learned Government Pleader submits that the State has already moved Special Leave Petition before the Hon'ble Supreme Court challenging the above judgment in MFA Nos.3,4 and 5 of 2007 and 262 of 2009.

2. I am of the view, basic tax shall be accepted from the petitioner without prejudice to the right of State to challenge judgment in the aforesaid cases. Therefore, there shall be a direction to the revenue officials to accept basic tax from the petitioners in

respect of the properties covered in the above judgment subject to the outcome of any civil appeal filed by the Forest Department. It is made clear that till the above judgment is varied by the Hon'ble Supreme Court, petitioner's possession and enjoyment shall not be interfered by the authorities.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

W.P.(C)NO. 1490 of 2015

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