

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 2864 of 2015 (G)

PETITIONER(S) :

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

**BY SENIOR ADVOCATE SRI.M.RAMESH CHANDER
BY ADVS.SRI.P.RAGHUNATH
SRI.ANEESH JOSEPH
SMT.DENNIS VARGHESE
SMT.P.VANDANA**

RESPONDENT(S) :

- 1. STATE OF KERALA
REP. BY THE PRINCIPAL CHIEF CONSERVATOR OF FOREST
FOREST DEPARTMENT, THIRUVANANTHAPURAM-695 001.**
- 2. THE CHIEF CONSERVATOR OF FORESTS
(CUSTODIAN- BIO-DIVERSITY ECOLOGICALLY FRAGILE LANDS)
VAZHUTHAKKAD, THIRUVANANTHAPURAM-695 001.**
- 3. DIVISIONAL FOREST OFFICER
SOUTH WAYANAD DIVISION, KALPETTA-673 121.**

**R1 TO R3 BY SR. GOVT. PLEADER SRI. K.C. VINCENT
BY SPL. GOVT. PLEADER SRI.M.P.MADHAVANKUTTY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 29-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Mn

...2/-

WP(C).No. 2864 of 2015 (G)

APPENDIX

PETITIONERS' EXHIBITS :

EXT. P1 SERIES-	PHOTOCOPIES OF RECEIPTS FOR PAYMENT OF SERIES PLANTATION TAX.
EXT. P2 -	PHOTOCOPY OF OCCURRENCE REPORT IN FORM 1 DT. 01.6.11.
EXT. P3 -	PHOTOCOPY OF CHARGE SHEET IN FORM II.
EXT. P4 -	PHOTOCOPY OF NOTIFICATION NO. EFL-10-311/2013 DT. 26.10.13.
EXT. P5 -	PHOTOCOPY OF THE NOTICE IN FORM 1 NO. B 3967/00 DT. 20.11.14.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.2864 of 2015

Dated this the 29th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

- "a) Issue a WRIT OF CERTIORARI quashing Ext.P4 notification to the extent it covers the properties held and owned by the petitioner;*
- b) Issue a WRIT OF CERTIORARI quashing Ext.P5 notice issued by the third respondent;*
- c) Issue a WRIT OF MANDAMUS directing the respondents not to interfere with the rights of the petitioners to enjoy the properties covered by Ext.P5 notice;*
- d) Grant such other reliefs as the petitioners may pray for and this Hon'ble Court may deem fit to grant in the circumstances of the case;*
- e) Award costs of the petitioners."*

2. The petitioner purchased 15.59 acres of cardamom plantation situated in Chundale Village in Vythiri Taluk. It is stated that the petitioner was remitting plantation tax from 2004-2005 to 2013, as evident from Ext. P1 series tax receipts. The grievance of the writ petitioner as projected in the writ petition is that, the 3rd respondent issued Ext.P4 Notification No.EFL-10-

311/2013 dated 26.10.2013 under Section 3(2) of the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003. According to the petitioner, the property concerned is not liable to be included in the aforesaid notification. Hence the writ petition.

3. Heard the learned Government Pleader as well.

4. After hearing both the sides, this Court finds that in view of the law declared by this Court as per the judgment dated 17.11.2014 in W.P.(C) No. 26691 of 2010 and connected cases, the petitioner, if aggrieved of Ext.P4, is having effective alternative remedy before the Custodian. The relevant portion [as contained in paragraph 163 (iv)] of the judgment is as follows:

"(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 Sec. 10(1) and 10A as the case may be considered and decided by the Tribunal in accordance with law expeditiously within a period of six months from the date of submitting the applications."

In the said circumstances, the writ petition is disposed of ,

in terms of the judgment dated 17.11.2014 in W.P.(C) Nos. 26691 of 2010 and connected cases, without prejudice to the rights and liberties of the petitioner to pursue other appropriate remedy.

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

sp