

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

WP(C).No.7833 of 2015 (D)

PETITIONERS:

1. **P.V.JOSEPH,S/O.VARKEY,PARATHANAL HOUSE,
CHITTOOR P.O.,AGALI,PALAKKAD DISTRICT.**
2. **ELIKUTTY JOSEPH,W/O.P.V.JOSEPH,
PARATHANAL LHOUSE,CHITTOOR P.O.
AGALI,PALAKKAD DISTRICT.**

**BY ADVS.SRI.K.M.SATHYANATHA MENON
SMT.KAVERY S THAMPI**

RESPONDENTS:

1. **RANGE FOREST OFFICER,AGALI RANGE,
PALAKKAD DISTRICT-678 581.**
2. **DIVISIONAL FOREST OFFICER,
MANNARKKAD DIVISION,MANNARKKAD P.O.
PALAKKAD DISTRICT-678 582.**

***ADDITIONAL 3RD RESPONDENT IMPLEADED**

**ADDL.R3:GRACY,AGED 54 YEARS,W/O.K.P.JOY,
KULANGARA HOUSE,CHITTOOR P.O.,
AGALI-678581.**

***ADDITIONAL 3RD RESPONDENT IS IMPLEADED IN THE PARTY ARRAY AS
PER ORDER DATED 25.3.2015 IN I.A. NO.4331/2015.**

**R1 & R2 BY SRI.M.P.MADHAVANKUTTY,SPL.GOV'T. PLEADER FOR
FOREST.
ADDL.R3 BY ADV.SRI.T.M.ABDUL LATHEEF**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23.03.2015 THE COURT ON 25-03-2015, DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1:TRUE COPY OF THE PATTAYAM ISSUED BY THE LAND TRIBUNAL, AGALI
IN FAVOUR OF 1ST PETITIONER.**

**EXT.P1(a):TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER,
AGALI IN FAVOUR OF 1ST PETITIONER.**

**EXT.P1(b):TRUE COPY OF THE TAX RECEIPT ISSUED BY THE VILLAGE OFFICER,
AGALI IN FAVOUR OF 2ND PETITIONER.**

EXT.P2:TRUE COPY OF THE ORDER DTD.19.6.2014 OF THE 1ST RESPONDENT.

EXT.P3:TRUE COPY OF THE ORDER DTD.9.2.2015 OF THE 1ST RESPONDENT.

EXT.P4:TRUE COPY OF THE ORDER DTD.19.6.2014 OF THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:

**EXT.R3(A):TRUE COPY OF THE POSSESSION CERTIFICATE NO.5124/2013
DATED 27.8.2013 ISSUED BY THE VILLAGE OFFICER,AGALI.**

**EXT.R3(B):TRUE COPY OF THE PATTAN NO.91/1982 DATED 20.4.1982 ISSUED BY
THE LAND TRIBUNAL,AGALI.**

**EXT.R3(C):TRUE COPY OF THE COMPLAINT DATED 11.7.2014 SUBMITTED BY
THE PETITIONER HEREIN BEFORE THE SUB INSPECTOR OF
POLICE,AGALI.**

**EXT.R3(D):TRUE COPY OF THE COMPLAINT DATED 5.7.2014 SUBMITTED BY THE
PETITIONER HEREIN BEFORE THE FOREST RANGE OFFICER,AGALI.**

**EXT.R3(E):TRUE COPY OF THE COMPLAINT DATED 24.7.2014 SUBMITTED BY
THE PETITIONER HEREIN BEFORE THE TALUK LEGAL SERVICE
SOCIETY, MANNARKKAD.**

**EXT.R3(G):TRUE COPY OF THE COMPLAINT DATED 11.7.2014 SUBMITTED BY
THE ADDL.3RD RESPONDENT BEFORE THE SUB INSPECTOR OF
POLICE,AGALI.**

**EXT.R3(H):TRUE COPY OF THE COMPLAINT DATED 5.7.2014 SUBMITTED BY THE
ADDL.RESPONDENT BEFORE THE FOREST RANGE OFFICER,AGALI.**

**EXT.R3(I):TRUE COPY OF THE COMPLAINT DATED 24.7.2014 SUBMITTED BY THE
ADDL.3RD RESPONDENT BEFORE THE TALUK LEGAL SERVICE
SOCIETY, MANNARKKAD.**

WP(C).No.7833 of 2015 (D)

**EXT.R3(J):TRUE COPY OF THE APPLICATION DATED 10.11.2014 SUBMITTED BY
THE ADDL.3RD RESPONDENT BEFORE THE TAHSILDAR,
MANNARKKAD.**

**EXT.R3(K):TRUE COPY OF THE JOINT COMPLAINT DATED 17.10.2014
SUBMITTED BEFORE THE TALUK SURVEY OFFICER, MANNARKKAD.**

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 7833 of 2015

Dated this the 25th day of March, 2015

JUDGMENT

Petitioners are husband and wife, who have approached this Court seeking for a direction to be given to the 1st respondent to issue transit pass in respect of the trees permitted to be cut and removed as per Exts. P2 and P4.

2. The sequence of events narrated in the writ petition shows that the petitioners are the owners of the property covered by Ext.P1 and they are enjoying the properties, also satisfying tax as borne by Exts. P1(a) and P1(b). The trees standing in the property belonging to the petitioners were sought to be cut and removed, for which application was filed before the 1st respondent. Site inspection was conducted by the 1st respondent and after considering the facts and figures, Ext.P2 order was passed, identifying the trees concerned, giving the girth and length of the trees in the case of the 1st petitioner. Some clerical mistake noted was rectified as per Ext.P3 order. Ext.P4, similar to Ext.P2 order has been passed in the case of the

2nd petitioner. It is stated that, pursuant to Exts.P2 and P4, the trees have been cut by the petitioners and they are remaining in the property concerned. However, before transporting the same Transit Pass had to be issued by the 1st respondent and accordingly, necessary application was preferred before the said respondent. The delay in finalizing the same made the petitioners to approach this Court by filing this writ petitions.

3. In the meanwhile, the 3rd respondent, who is the owner of the neighbouring property, has come up before this Court stating that under the guise of Ext.P2 and P4 orders, the petitioners have cut off two giant teak trees belonging to the 3rd respondent and steps are being taken to transport the said trees as well. It is stated that a complaint has already been preferred before the Forest Department and Police Authorities as to the alleged atrocious action of the petitioners.

4. In the course of further proceedings, a joint application was filed as per Ext.R3(c) before the concerned respondent for fixation of boundaries, so as to settle the issue once and for all. It is without any regard to the said course and events that the petitioners have approached this Court without impleading the 3rd

respondent, submits the learned counsel for the 3rd respondent.

5. Heard the learned Special Government Pleader as well, who submits that the particular trees which were standing in the property of the petitioners have already been identified and those trees have been specifically mentioned in Exts. P2 and P4. It is also pointed out that no application for Transit Pass was submitted by the petitioners earlier, before filing this writ petition and it was only after filing the writ petition, that such an application came to be filed. However, the fact remains that a spot inspection has to be conducted by the 1st respondent before issuing Transit Pass to the petitioners. It is also stated that, the inspection will be conducted by the 1st respondent and ascertain whether the trees which have already been cut are the trees which are identified as per Exts. P2 and P4 and only such trees which have been mentioned in Exts. P2 and P4 will be permitted to be transported on the strength of the Transit Pass to be issued.

6. In the above circumstance, there will be a direction to the 1st respondent to conduct inspection as above, with notice to the petitioners and also the 3rd respondent and issue necessary

Transit Passes to the petitioners so as to transport the trees already cut down as per Exts. P2 and P4. It shall be ensured that, no other trees which are not included in Exts. P2 and P4 are permitted to be transported by the petitioners under the cover of Exts. P2 and P4. With regard to the dispute between the 3rd respondent and the petitioners, it is always open for the 3rd respondent to move the competent Court of Law for appropriate reliefs. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

With the above observations the writ petition stands disposed of.

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

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