

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 15010 of 2007 (J)

PETITIONER(S):

1. **A. PREMAKUMARI,
POZHICKAL HOUSE, KANICHUKULANGARA P.O.,
CHERTHALA-688 544.**
2. **A. PRASOBHA,
VELLAPPALLY HOUSE, KANICHUKULANGARA P.O.,
CHERTHALA-688 544.**
3. **DILEEPKUMAR K.R.,
DILEEPSADANAM, KANICHUKULANGARA P.O.,
CHERTHALA-688 544.**
4. **A. PRASANNAKUMARI,
48/347, VRINDAVANAM, PERANDOOR ROAD,
ELAMAKKARA, COCHIN-682 026.**
5. **A. SULOCHANA,
KOLLADICKAL HOUSE, S.N.PURAM P.O., CHERTHALA.**
6. **A. GIRIJAKUMARI,
DWARAKA, NEAR IOC PUMB, PACCOOR,
VANCHIYOOR P.O., THIRUVANANTHAPURAM.**
7. **K.R. AKSHAJ, S/O.K.R.RAVEENDRANATHAN,
KANICHUKULANGARA P.O., CHERTHALA-688 544.**

BY SRI.P.RAVINDRAN,SENIOR ADVOCATE

RESPONDENT(S):

1. **STATE OF KERALA,
REP. BY ITS SECRETARY GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE CUSTODIAN APPOINTED UNDER THE
KERALA FORESTS (VESTING AND MANAGEMENT OF
ECOLOGICALLY FRAGILE LANDS), ORDINANCE NO.3 OF 2001
(PRINCIPAL CHIEF CONSERVATOR OF FORESTS),
THIRUVANANTHAPURAM.**

WP(C).No. 15010 of 2007

3. DIVISIONAL FOREST OFFICER,
FOREST DIVISION, KOZHIKODE.
4. FOREST RANGE OFFICER,
PERUVANNAMOOZHI RANGE.

BY GOVERNMENT PLEADER SRI.S.JAMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE ORDER GRANTING REGISTRATION DATED 21/5/77**
- P2 COPY OF THE JUDGMENT OF THE HON'BLE COURT IN MFA NO.250/80 DATED 29/1/1986**
- P3 COPY OF THE JUDGMENT OF THE DIVISION BENCH IN W.A.NO.325/87 DATED 12/1/89**
- P4 COPY OF THE ORDER TAHASILDAR QUILANDY NO.C6 3262/04 DATED 9/6/89**
- P5 COPY OF THE COMMUNICATION DATED 1/11/98**
- P6 COPY OF THE JUDGMENT IN OP 467/90 DATED 4/6/94.**
- P7 COPY OF THE JUDGMENT IN W.A.NO.362/95 DATED 29/10/97**
- P8 COPY OF THE DEATH CERTIFICATE OF T.V.RAGHAVAN**
- P8(A) COPY OF THE DEATH CERTIFICATE OF AMMINIAMMA**
- P9 COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT**
- P10 COPY OF THE INTERIM ORDER IN WP(C).NO.9552/01 DATED 20/3/01**
- P11 COPY OF THE COMMUNICATION DATED 2/1/2004**
- P12 COPY OF THE LETTER DATED 9/12/2003**
- P13 COPY OF THE INTERIM ORDER IN I.A.NO.7048/04 IN OP 9552/01 DATED 25/7/2004**
- P14 COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT**
- P15 COPY OF THE POSTAL COVER SHOWING THE DATE OF MAILING.**

RESPONDENT'S EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

K. VINOD CHANDRAN, J.

W.P.(C) No. 15010 of 2007 (J)

Dated this the 15th day of July, 2015

J U D G M E N T

The petitioner challenges the constitutional validity of the Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (Kerala).

2. The same is no longer res integra since the constitutional validity has been upheld in **Planters Forum v. State of Kerala - 2015 (2) KLT 783**. The operative portion of the judgment is as follows:

- “(i) We uphold the constitutional validity of the 2003 Act. The prayer in the Writ Petitions to declare the 2003 Act unconstitutional is refused. The challenge to Rules 17 to 20 of 2007 Rules is also repelled.
- (ii) Those petitioners who have challenged the Notifications issued under the Ordinances, notifying their land as ecologically fragile land under Ordinance Nos.6/2000, 8/2000, 3/2001 and 16/2001 are given liberty to submit an application

to the Custodian under Section 19 of the 2003 Act for reviewing the Notification within one month from this day if not already made.

- (iii) The Custodian shall proceed to examine the above applications taking into consideration the relevant materials and averments and observations made in this judgment. The decision be taken thereon within three months from the date of filing the application along with copy of this judgment. The pending applications be also decided within three months.
- (iv) Petitioners who have challenged the Notifications issued under Section 3 of the Act are also allowed one month's time to submit an application under Section 10(1) and 10A as the case may be to the Tribunal which 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.
- (v) The other reliefs claimed in the different Writ Petitions not specifically dealt with as above are refused."

3. In such circumstance, respectfully following the aforesaid Division Bench judgment, the above writ petition shall also be dismissed. However, the petitioners herein also shall be entitled to the liberties reserved therein and the petitioners would be entitled to move the Custodian/Tribunal, as advised, within one month from today.

Sd/-
K.VINOD CHANDRAN,
JUDGE