

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 14965 of 2011 (U)

PETITIONER(S):

1. T.C.ISSAC, S/O.LATE KOCHICKA CHACKO,
THECHERIL PRAYER, PANDANAD (N) P.O., KALLISSERI,
CHANGANNUR.

2. T.C.CHACKO, ABRAHAM,
S/O.LATE KOCHICKA CHACKO OF DO. DO.

*3. JOSEPH CHACKO,
S/O.LATE KOCHICKA CHACKO OF DO. DO.

*(3RD PETITIONER IS DELETED AS PER ORDER DATED 8/8/2012 IN
IA.NO. 10597/2012)

BY SRI.PRAVINDRAN,SENIOR ADVOCATE
ADVS. SRI.P.DEEPAK
SMT.APARNA RAJAN

RESPONDENT(S):

1. STATE OF KERALA, REP.BY ITS CHIEF SECRETARY,
GOVT. SECRETARIATE,
THIRUVANANTHAPURAM-695 001.

2. THE CHIEF CONSERVATOR OF FORESTS,
THIRUVANANTHAPURAM-695 001.

3. THE SUPERINTENDENT OF SURVEY & LAND RECORDS,
KOLLAM-691 001.

4. THE TAHSILDAR, PATHANAPURAM-689 645.

5. THE DIVISIONAL FOREST OFFICER,
THENMALA-691 308.

BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

sts

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE JUDGMENT OF THE HON'BLE COURT IN S.A.NO.777/75 DATED 3/10/79.**
- P2 COPY OF THE PETITION DATED 5/11/84 SUBMITTED BEFORE THE DISTRICT COLLECTOR, KOLLAM**
- P3 COPY OF THE COMMUNICATION OF THE 3RD RESPONDENT DATED 26/12/86**
- P4 COPY OF THE JUDGMENT IN O.P.NO.4351/87 DATED 30/7/87**
- P5 COPY OF THE JUDGMENT IN CCC NO.46/89 DATED 21/6/1989**
- P6 COPY OF THE REPRESENTATION DATED 28/7/89 SUBMITTED BY THE PETITIONER.**
- P7 COPY OF THE ORDER OF THE DISTRICT COLLECTOR DATED 15/9/90**
- P8 COPY OF THE JUDGMENT IN OP NO.6286/91 DATED 23/11/98**
- P9 COPY OF THE NOTICE DATED 16/4/99**
- P10 COPY OF THE ORDER OF THE 4TH RESPONDENT DATED 27/4/99**
- P11 COPY OF THE NOTICE DATED 20/5/99**
- P12 COPY OF THE JUDGMENT IN OP.NO.17312/99 DATED 13/2/2008**
- P13 COPY OF THE COUNTER-AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS IN CONT. CASE © NO.1248 OF 2009**
- P14 COPY OF THE JUDGMENT IN CONT. CASE © NO.1248 OF 2010 DATED 15/11/2010**
- P15 COPY OF THE REPRESENTATION DATED 20/1/11**
- P16 COPY OF THE COMMUNICATION DATED 8/2/11**

RESPONDENT'S EXHIBITS:

- R2(A) COPY OF THE RELEVANT NOTIFICATION**
- R2(B) COPY OF THE REPORT DATED 23/04/1999 OF THE RANGE OFFICER, THENMALA RANGE**

/TRUE COPY/

sts

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P(C)No. 14965 of 2011

Dated this the 12th day of October, 2015

J U D G M E N T

The subject matter of this writ petition is regarding the identification of certain items of properties claim to be belonged to the petitioner. There were disputes between the petitioner and State in a civil suit. Ext.P1 is the judgment decree in S.A.No.777 of 2005.

2. In the decree of this Court in the above S.A., this Court decreed as follows:-

“This second appeal coming on for hearing, upon perusing the grounds of the appeal, the judgments and decree of the lower courts and the material papers in the case and upon hearing the arguments of Mr.H.Sivaramakrishna Iyer, Advocate for the appellant and of Govt. Pleader for the 1st respondent, this Court doth in modification of the decree of the lower court order and decree as follows:-

(i) that the admission of the plaintiffs' title to the plaint schedule properties, items 1 and 4 by the State is recorded and the question of identification thereof is left open to be decided

by the plaintiff taking appropriate steps, under the provisions of the Kerala Survey and Boundaries Act, 1961.

(ii) that save as aforesaid the decree of the lower appellate court be and hereby is confirmed.

(iii) that the appeal is disposed as above this Court doth further order and decree that the parties to bear their respective costs in this costs.”

3. Thereafter, the petitioner approached the Revenue Officials to identify the property. The Revenue Officials refused to issue sketch stating that there was no survey in respect of the properties. This is under challenge before this Court.

4. In this matter, a detailed counter affidavit has been filed by the Forest Department as well. In the counter affidavit, it is stated that the petitioners are now attempting to take a claim in respect of the reserve forest. It is further submitted that the petitioners are not entitled for any relief.

5. Essentially, in this case, identification of the property claimed by the petitioners is the issue. This Court is of the view that items 1 to

4 as referred in the plaint O.S.No.15 of 1965 have to be identified by the revenue officials, after issuing notice to the Forest Department. There cannot be any dispute now in respect of ownership of title of plaint schedule items 1 to 4 in the above suit. Therefore, the properties referred in the above suit have to be identified by the revenue officials after notice to the petitioners and the Forest Department. Thus, there shall be a direction to the third and fourth respondents to identify item Nos.1 to 4 in O.S.No.15 of 1965 and prepare a sketch. This shall be done after notice to the petitioners as well as the Forest Department. Needful shall be done within a period of six months from the date of receipt of a copy of this judgment. Accordingly, the impugned order is set aside.

This writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE,
Judge

MBS/

The “S.A.No.777/2005” in paragraph 1 and “O.S.No.15/1965” in paragraph 5 of the judgment dated 12/10/2015 are corrected as “S.A.No.777/1975” and “O.S.No.18/1965” respectively as per order dated 14/01/2016 in I.A.18199/2015 in W.P(C)No.14965/2011.

sd/- Registrar (Judicial)

WP(C).NO.14965 OF 2011

:-4-: