

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

WP(C).No. 15742 of 2012 (P)

PETITIONER(S):

- 1. V.N.K.AHAMMED, FATHIMA ESTATE,
KRISHNAGIRI P.O., WYNAD DISTRICT.**
- 2. K.M.KHADEESA, KHADEEJA ESTATE,
MALANTHOLLAM, KRISHNAGIRI P.O.,
WYNAD DISTRICT.**
- 3. E.SUHARA, SUHARA ESTATE,
KRISHNAGIRI P.O., WYNAD DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.SATHEESHAN ALAKKADAN**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO GOVERNMENT,
DEPARTMENT OF LAND REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE COMMISSIONER OF LAND REVENUE,
LAND REVENUE COMMISSIONERATE,
THIRUVANANTHAPURAM-695001.**
- 3. THE DISTRICT COLLECTOR,
WAYANAD DISTRICT-673121.**
- 4. THE TAHSILDAR, SULTHAN BATHERY,
WYNAD DISTRICT-673121.**

BY SPECIAL GOVT. PLEADER SMT.SUSHEELA BHAT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26-11-2015 ALONG WITH WPC. 16296/2012, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S) EXHIBITS :

- EXHIBIT P1: A TRUE COPY OF THE REPORT SUBMITTED BY THE DISTRICT COLLECTOR RECOMMENDING THE ASSIGNMENT OF RESPECTIVE EXTENT OF LAND TO THE 1ST PETITIONER DATED 28-12-1998.
- EXT.P1A: A TRUE COPY OF THE REPORT SUBMITTED BY THE DISTRICT COLLECTOR RECOMMENDING THE ASSIGNMENT OF RESPECTIVE EXTENT OF LAND TO THE 2ND PETITIONER DATED 28-12-1998.
- EXT. P1B: A TRUE COPY OF THE REPORT SUBMITTED BY THE DISTRICT COLLECTOR RECOMMENDING THE ASSIGNMENT OF RESPECTIVE EXTENT OF LAND TO THE 3RD PETITIONER DATED 28-12-1998.
- EXHIBIT P2: A TRUE COPY OF THE ORDER NO.(MS)355/2000/REV. DATED 22-11-2000 ISSUED BY THE FIRST RESPONDENT.
- EXHIBIT P3: A TRUE COPY OF THE JUDGMENT DATED 25-7-2008 IN RP 730 OF 2008.
- EXHIBIT P4: A TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE 3RD RESPONDENT BY THE PETITIONERS DATED 15-3-2011.
- EXHIBIT P5: A TRUE COPY OF THE JUDGMENT IN WPC 20751 OF 2011 DATED 9-8-2011.
- *EXHIBIT P6: A TRUE COPY OF THE ORDER PASSED BY 3RD RESPONDENT IN L6-14828/08 DATED 7-5-2012.
- EXHIBIT P7 : A TRUE COPY OF THE G.O. DATED 30.9.2014.
- *EXHIBIT P8: A TRUE COPY OF THE ORDER PASSED BY 3RD RESPONDENT AS ORDER NO L6-23461/08 DATED 7-5-2012.

EXHIBIT P6 SUBSTITUTED BY EXT. P8 AS PER
ORDER DATED 2.11.2015 IN IA.15919/2015.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).Nos.15742/2012 & 16296/2012**  
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Dated this the 26th Day of November, 2015

J U D G M E N T

The Government in the year 2000 had decided to assign land to persons, who are in occupation of the Government land in resurvey Nos. 427/1 and 427/4, 5, 6 of Krishnagiri Village of Sulthan Bathery Taluk in Wayanad District. Government Orders are produced as Exhibit P2 in both the writ petitions. Name of the beneficiaries are referred in Exhibit P2 Government Orders itself. Petitioners in these two writ petitions are the persons referred in Exhibit P2 Government Orders. Exhibit P2 in W. P.(C). No.15742/2012 shows that the Government has agreed to assign land at the rate of Rs.1500/- per Cent as the market value to the petitioners therein. But going by Exhibit P2 in W. P.(C).No. 16296/2012, the Government has agreed to assign land at the rate of Rs.3,000/- per Cent as the market value.

2. The petitioners in both these writ petitions had earlier challenged fixation of the market value before this Court. Ultimately, the writ petitions were withdrawn as evident from Exhibit P3 produced in both

the writ petitions . Thereafter, the petitioners again approached the District Collector to implement the order of the Government. It was directed to be considered as per the direction of this Court in Exhibit P5 judgments produced in both the writ petitions. The petitioners applications were considered by the District Collector. The District Collector found that in view of the relevant Government Orders, the petitioners are only eligible for one acre.

3. The petitioners point out amendment to the Kerala Land Assignment Rules as per G.O.(P).No. 425/2014/RD., dated 30/09/2014. Exhibit P7 produced in W.P.(C).No.15742 of 2012 is the copy of the Government Order. According to the petitioners, based on the amendment, the petitioners are eligible for four acres of dry land. As per the amended rules, the Government can assign dry land in hilly tracts up to 3 acres in respect of land where there are no valuable improvements and upto 4 acres of dry land where there are valuable improvements. Therefore, the petitioners submit that the matter has to be reconsidered.

4. The learned Special Government Pleader submits that even if the matter is reconsidered, the petitioners are liable to pay the rate at the prevalent market rate.

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5. This Court is of the view that whether the petitioners are liable to pay current value or not, has not been considered by the District Collector and further in view of the amendment, the impugned orders are liable to be set aside. The impugned orders are therefore, set aside. The matters shall be reconsidered afresh in the light of the amended rule after adverting to the decision of the Government in Exhibit P7 Government Order produced in W.P.(C).No.15742 of 2012. Needful shall be done within a period of two months.

The writ petitions are disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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