

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 16276 of 2015 (H)

PETITIONERS:

1. THOMAS K.J., S/O. JOSEPH,
KONNAKKULATH HOUSE, GAP ROAD,
CHINNAKKANAL P.O., DIST. IDUKKI.
2. MADHU JOHN,S/O. P.M.JOHN,
PAINUTHARA, KADAVANTHARA,
DIST. ERNAKULAM, KOCHI-682 020.

**BY ADVS.SRI.K.REGHU KOTTAPPURAM
SRI.M.MUKESH
SRI.MURUKESH REGHU**

RESPONDENTS:

1. THE VILLAGE OFFICER,
CHINNAKKANAL VILLAGE, UDUMBANCHOLA TALUK,
DIST. IDUKKI. PIN-685 554
2. THE SPECIAL TAHASILDAR (L.A.),
RAJAKUMARI, RAJAKKAD P.O., UDUMBANCHOLA TALUK,
DIST. IDUKKI. PIN-685 566
3. THE DISTRICT COLLECTOR,
IDUKKI DISTRICT, IDUKKI. PIN-685 603

BY SPL.GOVERNMENT PLEADER SMT. SUSHEELA BHATT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-07-2015,ALONG WITH WP(C).NO.17595/2015 AND WP(C).
NO.19367/2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 16276 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- THE PHOTOCOPY OF THE PATTA NO. L.A.19/2000/C DATED 7-8-2000.**
- EXHIBIT P2- A PHOTOCOPY OF SALE DEED NO. 1858 DATED 9-4-2003.**
- EXHIBIT P3- A PHOTOCOPY OF LATEST LAND TAX RECEIPT VIDE T.P.NO.406(A)
FOR THE PERIOD 2007-08 TO 15-16 DATED 16-4-15.**
- EXHIBIT P4- A PHOTOCOPY OF SALE DEED NO. 1859 DATED 9-4-2003.**
- EXHIBIT P5- A PHOTOCOPY OF THE LATEST LAND TAX RECEIPT FOR THE YEARS
2006-07 TO 2015-16.**
- EXHIBIT P6- THE PHOTOCOPY OF RULE VIDE G.O.(P)NO. 456/2010/RD DATED
16-11-2010.**
- EXHIBIT P7- A PHOTOCOPY OF RECIEPT NO. 78 DATED 6-12-2010.**

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) Nos. 16276, 17595 & 19367 of 2015

Dated this the 28th day of July, 2015

J U D G M E N T

The petitioners in all the above writ petitions are concerned with the fact that the restrictive covenant in their patta relating to alienation has not been removed, despite the Government having brought in Ext.P2 amendment.

2. The petitioners have produced their pattas at Ext.P1 in the respective writ petitions. A reading of the pattas would show that the conditions clearly stipulate that there shall be no alienation of the land so assigned under the Kerala Land Assignment (Regularisation of Occupations of Forest Lands prior to 1.1.1977) Special Rules, 1993 (for brevity the 'Rules'). Subsequently, however, the Government brought in amendment to the Rules wherein it was stipulated so:

“1. The land granted on registry shall be heritable and alienable subject to the condition that the alienated land shall not be used for any purpose, other than those specified in Rule 3.”

The petitioners seek that the said condition be endorsed in Ext.P1.

2. The learned Special Government Pleader (Revenue) however, would submit that there are proceedings going on with respect to the pattas granted, which in many cases were found to be unauthorised.

3. Ext.P5 judgment of this Court is authoritative insofar as declaring that any proceedings taken by the Government with respect to such unauthorised pattas would not be affected, even by the mutation effected, under the Transfer of Registry Rules, 1966, even in the event of an alienation. Hence, in the present case also the petitioners' restrictive covenant in Ext.P1 produced in all the writ petitions can definitely be removed as per Ext. P2

amendment, however, with the condition that there can be no use, other than that stipulated under Rule 3 of the Rules.

4. In such circumstance, the endorsement of the amendment in Ext.P1 in all the writ petitions shall be made within a period of three months from the date of receipt of the certified copy of this judgment.

Writ Petitions are disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE