

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 8TH DAY OF JULY 2015/17TH ASHADHA, 1937

WP(C).No.16393 of 2015 (Y)

PETITIONER'S:

1. **CHITTOOR RAJAMANNAR,S/O.K.S.CHITTOOR,
KIZHAKKEKALAPPURACKAL HOUSE,
MANAKKAD VILLAGE,PUTHUPPARIYARAM.P.O.,
PIN-685584,THODUPUZHA TALUK.
[PRESENT ADDRESS:CHITTOOR RAJAMANNAR,
ADVOCATE,THODUPUZHA.P.O-685584,MOB:9447523114].**
2. **PRAKASH CHITTOOR,S/O.K.S.CHITTOOR,
KIZHAKKEKALAPPURACKAL HOUSE,
MANAKKAD VILLAGE, PUTHUPPARIYARAM.P.O.,
PIN-685584,THODUPUZHA TALUK.**
3. **DILEEP CHITTOOR,S/O.K.S.CHITTOOR,
KIZHAKKEKALAPPURACKAL HOUSE,
MANAKKAD VILLAGE,PUTHUPPARIYARAM.P.O.,
PIN-685584,THODUPUZHA TALUK.**
4. **RANI B.CHITTOOR,D/O.K.S.CHITTOOR,
KIZHAKKEKALAPPURACKAL HOUSE,
MANAKKAD VILLAGE,PUTHUPPARIYARAM.P.O.,
PIN-685584,THODUPUZHA TALUK.**

BY ADV.SRI.CHITTOOR RAJAMANNAR (PARTY IN PERSON)

RESPONDENT'S:

1. **STATE OF KERALA,REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM,
PIN-695 001.**
2. **THE PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT,THIRUVANANTHAPURAM,PIN-695001.**
3. **LAND REVENUE COMMISSIONER,THIRUVANANTHAPURAM,PIN-695 001.**
4. **THE DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM,PIN-695 001.**
5. **THE DISTRICT COLLECTOR,IDUKKI,
PAINAVU.P.O.,PIN-685603.**

WP(C).No.16393 of 2015 (Y)

6. THE SUPERINTENDENT OF POLICE,
IDUKKI DISTRICT,PAINAVU P.O.,PIN-685603.
7. REVENUE DIVISIONAL OFFICER/SUB COLLECTOR,
DEVIKULAM.P.O.,PIN-685613.
8. THE CARDAMOM SETTLEMENT OFFICER,
DEVIKULAM.P.O.,PIN-685613.
9. DIVISIONAL FOREST OFFICER,MUNNAR.P.O.,PIN-685612.
10. THE BOTANIST,CARDAMOM RESEARCH STATION,
PAMPADUMPARA,IDUKKI DISTRICT,PIN-685556.
11. THE TAHASILDAR,TALUK OFFICE DEVIKULAM,PIN-685613.
12. THE SPECIAL TAHASILDAR,LAND ASSIGNMENT DEVIKULAM,
PIN-685 613.
13. VILLAGE OFFICER,PALLIVASAL,PIN-685565.
14. CHELLAMMA,W/O.VISWAN,MANGAPPURATHU HOUSE,
PALLIVASAL VILLAGE,DEVICOLAM TALUK,PIN-685 565.
15. AJITH,S/O.CHANDRAN PILLAI,THANNIPPARA HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVICOLAM TALUK,PIN-685565.
16. T.G.SASIDHARAN,S/O.GANGADHARAN,
THAIVELIPPARAMBIL HOUSE,ATTUKADU KARA,
PALLIVASAL VILLAGE,DEVICOLAM TALUK,PIN-685565.
17. P.S.GOPI,S/O.SANKARA PILLAI,THADATHIL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
18. E.K.SURESH KUMAR,S/O.KUMARAN,ERULANKAL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
19. SREENIVASAN,S/O.RAJU,AGED 33 YEARS,
VETTANOLICKAL HOUSE,KUNJITHANNI KARA,
PALLIVASAL VILLAGE,DEVIKULAM TALUK,PIN-685565.
20. RAJAMMA,W/O.SREENIVASAN,VETTANOLICKAL HOUSE,
KUNJITHANNI KARA,PALLIVASAL VILLAGE,PIN-685565.
21. V.V.PADMANABHA PILLAI,S/O.VASUPILLAI,VAYAMBOOR HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
22. C.B.SASI,S/O.BHASKARAN PILLAI,CHERUVIL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.

23. SANTHOSH P.G,S/O.GOPALAN,POOVATHINKAL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
24. C.B.SOMAN,S/O.BHASKARAN PILLAI,ENCHAPUZHA HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
25. A.N.DAMODARAN,S/O.VELAYUDHAN,AANAKKATTIL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
26. SANTHOSH,S/O.NANU PILLAI,THANNIPPARA HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
27. E.S.PRAKASH,S/O.SUKUMARAN,ENCHAPUZHA HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
28. N.P.MOHANAN,S/O.NARAYANAN,PUTHUMANACKAL HOUSE,
ATTUKADU KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
29. JACOB GEORGE,S/O.GEORGE I.C,POOPADA HOUSE [RAJ VILAS],
MUNNAR.P.O.,K.D.H.VILLAGE,DEVIKULAM TALUK,PIN-685565.
30. OOMMEN GEORGE,S/O.GEORGE I.C,POOPADA HOUSE [RAJ VILAS],
MUNNAR.P.O.,K.D.H.VILLAGE,DEVIKULAM TALUK,PIN-685565.
31. K.N.DAMODARAN,S/O.NARAYANAN,KALLUVELIL HOUSE,
KUNCHITHANNI KARA,PALLIVASAL VILLAGE,
DEVIKULAM TALUK,PIN-685565.
32. BALAN PILLAI,S/O.RAJAPPAN PILLAI,THANNIPPARA HOUSE,
PULLUMALA DESHEEYAM BHAGAM,KUNCHITHANNI VILLAGE,
PIN-685565.
33. SOMAN PILLAI,THANNIPPARA HOUSE,ATTUKADU KARA,
PALLIVASAL VILLAGE,DEVIKULAM TALUK,PIN-685565.
34. RAJU,S/O.SANKARAN,AKKARAKKATTIL HOUSE,
KUNCHITHANNI,DEVIKULAM TALUK,PIN-685565.
35. K.R.GOPI,KOYIKKARAKUNNEL HOUSE,KUNCHITHANNI,
DEVIKULAM TALUK,PIN-685565.

R1 TO R13 BY SENIOR GOVT. PLEADER SRI.C.S.SYAMKUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03.06.2015 THE COURT ON 08-07-2015, DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- P1- TRUE COPY OF THE SALE DEED OF THE SUBJECT MATTER LAND EXECUTED BY SMT.NESAMMAL GANAPATHY AND SRI.N.GANAPATHY EX.M.L.A., TO SRI.K.S.CHITTOOR DATED 4.2.1971.
- P1A- ENGLISH TRANSLATION OF EXT.P1.
- P2- TRUE COPY OF THE DECREE IN O.S.NO.1/1983 OF THE HON'BLE MUNSIFF'S COURT DEVIKULAM DATED 16.7.1984.
- P2A- ENGLISH TRANSLATION OF EXT.P2.
- P3- TRUE COPY OF THE JUDGMENT IN I.S.NO.523/1983 OF THE SUB COURT, KOTTAYAM DATED 30.9.1987.
- P4- TRUE COPY OF THE JUDGMENT IN O.P.NO.10954/87 OF THE HON: HIGH COURT OF KERALA DATED 12.1.1988.
- P5- TRUE COPY OF THE REFER NOTICE ISSUED BY THE SUB INSPECTOR OF POLICE, MUNNAR POLICE STATION IN CRIME NO.91/87 DATE NIL.
- P5A- ENGLISH TRANSLATION OF MALAYALAM ENTRY IN EXT.P5.
- P6- TRUE COPY OF THE COMMUNICATION FROM THE OFFICE OF THE ADVOCATE GENERAL TO THE SUB INSPECTOR OF POLICE URGING TO PREVENT THE PETITIONERS FROM ENTERING THE LAND NO.N3-10954/87/O.P. DATED 31.12.87.
- P7- TRUE COPY OF THE APPLICATION FILED BY N.FRANCIS BEFORE THE EXECUTIVE OFFICER, PALLIVASAL PANCHAYAT DATED 5.3.88.
- P8- TRUE COPY OF THE REPORT DATED 10.3.1988 OF THE OFFICIAL OF PALLIVASAL PANCHAYAT.
- P8A- THE ENGLISH TRANSLATION OF EXT.P8.
- P9- TRUE COPY OF THE APPLICATION FILED BY N.FRANCIS BEFORE THE EXECUTIVE OFFICER, PALLIVASAL PANCHAYAT DATED 24.3.88.
- P10- TRUE COPY OF BUILDING ASSESSMENT REGISTER OF PALLIVASAL PANCHAYAT WARD VIII 1983-84 TO 1987-88 PAGE NO.68, CHANGING THE OWNERSHIP SUBSEQUENT TO THE JUDGMENT IN O.P.NO.10954/87 OF HON: HIGH COURT OF KERALA.
- P10A- ENGLISH TRANSLATION OF EXT.P10.
- P11- TRUE COPY OF THE JUDGMENT IN O.P.NO.9609/1988 OF THE HON: HIGH COURT OF KERALA GRANTING POLICE PROTECTION TO NAVAMONY AMMAL, DATED 19.10.1989.

- P12- TRUE COPY OF THE JUDGMENT IN A.S.NO.186/87 OF THE DISTRICT COURT KOTTAYAM SETTING ASIDE THE JUDGMENT IN O.S.NO.523/83 DATED 23.10.1991.
- P12A- ENGLISH TRANSLATION OF THE MALAYALAM PASSAGES IN EXT.P12.
- P13- TRUE COPY OF THE COMMISSION REPORT IN A.S.NO.186/87 OF THE DISTRICT COURT KOTTAYAM DATED 4.1.87.
- P13A- ENGLISH TRANSLATION OF EXT.P13.
- P14- TRUE COPY OF THE JUDGMENT IN S.A.NO.967/91 OF THE HON: HIGH COURT OF KERALA DATED 14.2.2008.
- P15- A TRUE COPY OF THE EXT.P24 IN S.A.NO.967/1991 OF THE HON: HIGH COURT OF KERALA.
- P16- A TRUE COPY OF THE APPLICATION FILED BY LATE K.S.CHITTOOR BEFORE THE HON: MINISTER FOR REVENUE DATED 4.10.1979.
- P17- A TRUE COPY OF THE PETITION FILED BY K.S.CHITTOOR BEFORE THE HON: MINISTER FOR REVENUES DATED 21.5.1980.
- P17A- AN ENGLISH TRANSLATION OF THE EXT.P17.
- P18- TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE LAND ASSIGNMENT TAHASILDAR DEVIKULAM FOR NOT ISSUING PATTAS OR POSSESSION CERTIFICATE CONCERNING THE 18.89 ACRES OF LAND IN SY.NO.569,570 & 572 OF PALLIVASAL VILLAGE DATED 12.9.1991.
- P19- TRUE COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE LAND ASSIGNMENT TAHASILDAR DATED 26.9.1991.
- P20- TRUE COPY OF THE DECREE IN O.S.NO.53/1992 OF THE HON'BLE MUNSIF COURT DEVIKULAM DATED 31.3.1993.
- P21- TRUE COPY OF THE COMMISSION REPORT & SKETCH IN O.S.NO.53/1992 OF THE HON'BLE MUNSIF COURT DEVIKULAM DATED 11.3.1992.
- P21A- ENGLISH TRANSLATION OF EXT.P21.
- P22- TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE SUB DIVISIONAL MAGISTRATE DEVIKULAM DATED 10.1.1992.
- P22A- TRUE COPY OF THE ORDER OF THE SUB DIVISIONAL MAGISTRATE DEVIKULAM FOR POLICE PROTECTION DATED 13.1.1992.
- P23- TRUE COPY OF THE JUDGMENT IN O.P.NO.11343/1991 OF THE HON: HIGH COURT OF KERALA DATED 22.6.1992.
- P24- TRUE COPY OF THE CAVEAT ORIGINAL PETITION NO.11/1998 FILED BY THE PETITIONER BEFORE THE HON" SUB COURT THODUPUZHA DATED 26.3.1998.

- P25- TRUE COPY OF THE PLAINT IN O.S.NO.109/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY CHELLAMMA VISWAN RESPONDENT NO.14 DATED 25.3.1999.
- P25A- TRUE COPY OF THE JUDGMENT IN O.S.NO.109/1999 OF THE HON" MUNSIFF'S COURT DEVIKULAM DATED 23.10.2001.
- P26- TRUE COPY OF PLAINT IN O.S.NO.114/1999, OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY AJITH, RESPONDENT NO.15, DATED 29.3.1999.
- P26A- TRUE COPY OF JUDGMENT IN O.S.NO.114/1999, AND COUNTER-CLAIM THEREIN OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 25.8.2001.
- P26B- TRUE COPY OF JUDGMENT IN A.S.59/2003 IN O.S.NO.114/1999, OF THE HON: SUB COURT THODUPUZHA DATED 17.10.2005.
- P27- TRUE COPY OF PLAINT IN O.S.NO.115/99, OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY T.G.SASIDHARAN RESPONDENT NO.16, DATED 25.3.1999.
- P27A- TRUE COPY OF JUDGMENT IN O.S.NO.115/99, OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 20.11.2001.
- P27B- TRUE COPY OF JUDGMENT IN A.S.NO.67/2002 IN O.S.NO.115/99, OF THE HON: SUB COURT KATTAPPANA DATED 17.10.2005.
- P28- TRUE COPY OF THE PLAINT IN O.S.NO.116/1999, OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY P.S.GOPI RESPONDENT NO.17, DATED 25.3.1999.
- P28A- TRUE COPY OF JUDGMENT IN O.S.NO.116/1999, OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 22.5.2001.
- P29- TRUE COPY OF PLAINT IN O.S.NO.117/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY RESPONDENT NO.18, DATED 25.3.1999.
- P29A- TRUE COPY OF JUDGMENT IN O.S.NO.117/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 19.6.2001.
- P30- TRUE COPY OF PLAINT IN O.S.NO.118/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY SREENIVASAN & RAJAMMA RESPONDENT NO.19 & 20, DATED 24.3.1999.
- P30A- TRUE COPY OF JUDGMENT IN O.S.NO.118/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 16.7.2001.
- P31- TRUE COPY OF THE PLAINT IN O.S.NO.119/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY V.V.PADMANABHA PILLAI RESPONDENT NO.21, DATED 25.3.1999.
- P31A- TRUE COPY OF JUDGMENT IN O.S.NO.119/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 23.5.2001.

- P32- TRUE COPY OF PLAINT IN O.S.NO.125/99 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY C.B.SASI RESPONDENT NO.22, DATED 25.3.1999.
- P32(A)-TRUE COPY OF JUDGMENT IN O.S. NO.125/99 OF THE HON: MUNSIFF'S COURT,DEVIKULAM DATED 8.1.2002.
- P32B- TRUE COPY OF JUDGMENT IN A.S.NO.49/2002 IN O.S.NO.125/99 OF THE HON: SUB COURT KATTAPPANA DATED 24.8.2005.
- P33- TRUE COPY OF PLAINT IN O.S.NO.126/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY SANTHOSH P.G. RESPONDENT NO.23, DATED 25.3.1999.
- P33A- TRUE COPY OF JUDGMENT IN O.S.NO.126/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 8.1.2002.
- P34- TRUE COPY OF THE PLAINT IN O.S.NO.127/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY RESPONDENT NO.24, C.B.SOMAN DATED 24.3.1999.
- P34A- TRUE COPY OF JUGMENT IN O.S.NO.127/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 21.11.2001.
- P35- TRUE COPY OF PLAINT IN O.S.NO.128/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY A.N.DAMODARAN RESPONDENT NO.25 DATED 23.3.1999.
- P35A- TRUE COPY OF JUDGMENT IN O.S.NO.128/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 3.10.2001.
- P36- TRUE COPY OF PLAINT IN O.S.NO.129/99 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY SANTHOSH RESPONDENT NO.26 DATED 25.3.1999.
- P36A- TRUE COPY OF JUDGMENT IN O.S.NO.129/99 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 21.11.2001.
- P36B- TRUE COPY OF JUDGMENT IN A.S.NO.59/2002, IN O.S.NO.129/99 OF THE HON: SUB COURT KATTAPPANA DATED 26.11.2005.
- P37- TRUE COPY OF PLAINT IN O.S.NO.130/1999, OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY E.S.PRAKASH RESPONDENT NO.27 DATED 29.3.1999.
- P37A- TRUE COPY OF JUDGMENT IN O.S.NO.130/1999, OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 15.1.2002.
- P38- TRUE COPY OF PLAINT IN O.S.NO.131/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY N.P.MOHANAN RESPONDENT NO.28, DATED 25.3.1999.

- P38A- TRUE COPY OF JUDGMENT IN O.S.NO.131/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 31.10.2001.**
- P39- TRUE COPY OF PLAINT IN O.S.NO.152/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM FILED BY JACOB GEORGE RESPONDENT NO.29 DATED 8.4.1999.**
- P39A- TRUE COPY OF JUDGMENT IN O.S.NO.152/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 31.10.2001.**
- P40- A TRUE COPY OF THE PLAINT IN O.S.NO.137/2000 OF THE HON'BLE MUNSIFF'S COURT DEVIKULAM DATED 12.6.2000.**
- P40A- TRUE COPY OF THE LIST OF DOCUMENTS FILED BY THE DEFENDANTS [RESPONDENTS NO.5 TO 20 AND RESPONDENT NO.22 HEREIN] IN O.S.NO.137/2000 OF HON: MUNSIFF'S COURT DEVIKULAM DATED 17.7.2000.**
- P40B- ENGLISH TRANSLATION OF EXT.P40A.**
- P41- TRUE COPY OF THE COUNTER-CLAIM FILED BY THE PETITIONER IN O.S.NO.114/1999 OF THE HON: MUNSIFF'S COURT DEVIKULAM DATED 24.11.2000.**
- P42- A TRUE COPY OF THE FRAUDULENT PATTa NO.13382 VILLAGE PALLIVASAL L.A.253/93PVL OBTAINED BY RESPONDENT NO.31 DAMODARAN AND PRODUCED BY RESPONDENT NO.16 THE PLAINTIFF IN O.S.NO.115/999 OF HON'BLE MUNSIFF'S COURT DEVIKULAM.**
- P43- TRUE COPY OF THE PETITION DATED 26.8.2002, FILED BEFORE THE TAHASILDAR DEVIKULAM TALUK FOR THE CANCELLATION OF ILLEGAL PATTa OBTAINED BY RESPONDENT NO.31 K.N.DAMODARAN [NO.13382, VILLAGE PALLIVASAL L.A.253/93/PVL.]**
- P43A- TRUE COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE TAHASILDAR DEVIKULAM DATED 28.8.2002.**
- P44- TRUE COPY OF THE ORDER OF THE SUB COURT THODUPUZZHA IN E.A.NO.15/2006 IN E.P.NO.89/2003 IN O.S.523/83 FOR DELIVERY OF POSSESSION OF THE LAND TO THE PETITIONERS HEREIN DATED 18.2.2006.**
- P45- TRUE COPY OF THE REPORT OF THE COURT AMIN THAT HE WAS PREVENTED BY 30 PERSONS ARMED WITH DEADLY WEAPONS, DATED 10.4.2006.**
- P45A- ENGLISH TRANSLATION OF EXT.P45.**
- P46- TRUE COPY OF THE REPORT OF THE TALUK SURVEYOR THAT HE WAS PREVENTED BY 30 PERSONS ARMED WITH DEADLY WEAPONS DATED 1.4.2006.**
- P46A- ENGLISH TRANSLATION OF EXT.P46.**

- P47- TRUE COPY OF THE PRIVATE COMPLAINT. CRL.M.P.NO.1439/2006 FILED BY THE PETITIONER AGAINST THE PERSONS WHO PREVENTED THE AMIN AND PARTY WITH DEADLY WEAPONS, BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT DEVIKULAM DATED 18.7.2006.**
- P47A- ENGLISH TRANSLATION OF EXT.P47.**
- P48- TRUE COPY OF THE CHARGE NO.252/2006 DATED 6.11.2006 IN C.C.NO.551 OF 2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT DEVIKULAM.**
- P48A- ENGLISH TRANSLATION OF EXT.P48.**
- P49- TRUE COPY OF THE SCENE MAHAZAR DATED 23.7.2006 IN C.C.NO.551/2006 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT DEVIKULAM SHOWING THE OBSTRUCTED PATHWAY.**
- P49A- ENGLISH TRANSLATION OF EXT.P49.**
- P50- TRUE COPY OF THE JUDGMENT OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT DEVIKULAM DATED 8.12.2011 IN C.C.NO.551/2006 ACQUITTING THE ACCUSED.**
- P51- A TRUE COPY OF THE NOTICE DATED 21.4.2007 ISSUED TO THE VILLAGE OFFICER, PALLIVASAL, SPL. TAHASILDAR LAND ASSIGNMENT, DEVIKULAM, THE DISTRICT COLLECTOR IDUKKI.**
- P51A- TRUE COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE DISTRICT COLLECTOR IDUKKI DT. 7.5.2007.**
- P51B- A TRUE COPY OF THE ACKNOWLEDGEMENT CARD SIGNED BY THE VILLAGE OFFICER, PALLIVASAL DATED 3.5.2007.**
- P52- TRUE COPY OF THE MEMO FILED BY THE PETITIONER BEFORE THE HON: SUB COURT, NOT PRESSING THE E.P.89/2003 IN O.S.523/83 DATED 10.11.2011.**
- P53- TRUE COPY OF THE PETITION FILED BY THE PETITIONERS BEFORE THE LAND REVENUE COMMISSIONER, THIRUVANANTHAPURAM DATED 10.2.2011.**
- P54- TRUE COPY OF THE RECEIPT NO.L.R.J-7254/2011 DATED 18.2.2011 ISSUED BY JOINT COMMISSIONER AT THE OFFICE OF THE LAND REVENUE COMMISSIONER THIRUVANANTHAPURAM.**
- P54A- ENGLISH TRANSLATION OF EXT.P54.**
- P55- TRUE COPY OF THE PETITION FILED BY THE PETITIONERS BEFORE THE DISTRICT COLLECTOR, WITH COPIES TO TAHASILDAR DEVIKULAM AND VILLAGE OFFICER PALLIVASAL DATED 16.12.2013.**
- P56- TRUE COPY OF THE ACKNOWLEDGEMENT CARD ISSUED BY THE TAHASILDAR DATED 19.12.2013.**

WP(C).No.16393 of 2015 (Y)

- P57- TRUE COPY OF THE ACKNOWLEDGEMENT CARD ISSUED BY THE VILLAGE OFFICER PALLIVASAL DATED 19.12.2013.**
- P58- TRUE COPY OF THE PETITION FILED BY THE PETITIONERS BEFORE THE SUPERINTENDANT OF POLICE IDUKKI DATED 16.12.2013.**
- P59- TRUE COPY OF THE ACKNOWLEDGEMENT CARD ISSUED BY THE SUPERINTENDENT OF POLICE IDUKKI DATED 19.12.2013.**
- P60- TRUE COPY OF THE PETITION FILED BY THE PETITIONERS BEFORE THE CHIEF MINISTER OF KERALA, DATED 24.12.2013.**
- P61- TRUE COPY OF THE MESSAGE ID: 23173-1427535-170 DATED 15.1.14 ISSUED TO THE PETITIONER FROM THE OFFICE OF THE CHIEF MINISTER OF KERALA.**
- P61A- ENGLISH TRANSLATION OF EXT.P61.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

W.P.C.No.16393 of 2015

Dated this the 8th day of July 2015

J U D G M E N T

Shaffique, J

In this writ petition seeking for police protection, the following reliefs are sought:

“1. Issue a writ of Mandamus or any other appropriate writ, order or direction, calling upon the respondent Nos.4 to 6 to afford police protection for the lives and property of the petitioners in 18.89 Acres of land in Sy Nos.569, 570 & 572 of Pallivasal village, Devikulam Taluk, Idukki District and to evict all unauthorized illegal encroachers and also removing their hutments and other constructions and installations, and to remove the obstructions to the cartable road connecting the subject matter land with the public road passing through the land of respondent Nos.29& 30.

2. Issue a writ of certiorari or any other appropriate writ, order or direction, calling upon the respondent No.12 to dispose of Ext.P43 petition dated 26/08/2002 to cancel the fraudulent and illegal patta No.13382, Village Pallivasal L.A.253/93/PVL., obtained

by the respondent No.31, K.N.Damodaran.

3. Issue a writ of certiorari or any other appropriate writ, order or direction, calling upon the respondent Nos.1,2,3,5,12 to cancel all fraudulent and illegal pattas, if any, obtained by any persons in respect of 18.89 acres of land in survey Nos.569, 570 and 572 of Pallivasal village.

4. Issue a writ of mandamus or any other appropriate writ order or direction, calling upon the respondent No.3, the Land Revenue Commissioner to consider the Ext.P53 petition filed by the petitioners for the assignment of the land in their favour in the light of the Kerala Land Assignment (Regularisation of Occupations of Forest Lands Prior to 1-1-1977) Special Rules,1993 or other provisions of law.

5. Grant such other reliefs as the petitioners pray for and this Hon'ble Court deem fit to grant in the circumstances of the case.

6. Award the costs of the petitioners in these proceedings."

2. The petitioners have approached this Court with the following set of facts.

According to them, they are successors-in-interest of K.S.Chittoor who own an extent of 18.89 acres of cardamom land, obtained as per Ext.P1 sale deed dated 04/02/1971. In the year

1983, K.S.Chittoor filed a suit for injunction as O.S.No.1/1983 before the Munsiff Court, Devikulam against certain persons alleging attempt to trespass. Suit was decreed on 16/07/1984. O.S.No.18/1983 was filed by one S.Navamony Ammal before the Sub Court, Thodupuzha seeking for a declaration of possession in respect of the said property. The suit was transferred to the sub Court, Kottayam and renumbered as O.S.No.523/1983. The said suit was decreed on 30/09/1987. Despite the decree, Sri.K.S.Chittoor, along with the petitioners, continued to be in possession. The second plaintiff in the suit one N.Franics filed O.P.No.10954/1987 before this Court seeking police protection based on judgment in O.S.No.523/1983. Petitioners submit that they were forcefully dispossessed from the property based on the judgment dated 12/01/1988. Ext.P4 is the said judgment. It is therefore submitted that the aforesaid N.Francis obtained possession of the property by the strength of police protection granted by this Court.

3. Sri.K.S.Chittoor filed A.S.No.186/1987 before the District Court, Kottayam. He died on 10/10/1988. The appeal was allowed setting aside the judgment and decree in

O.S.No.523/1983 and the suit was dismissed. Ext.P12 is the said judgment dated 23/10/1991. Second appeal was filed by the 1st plaintiff as S.A.No.967/1991 before this Court and by judgment dated 14/02/2008, the same was dismissed. In the meantime, petitioners moved an application before the Land Assignment Tahsildar, Devikulam requesting the authority not to issue patta or possession certificate to any person on account of the pendency of S.A.No.967/1991. Petitioners submits that after the judgment in A.S.No.186/1987, petitioners 1 and 2 made a re-entry upon the property in 1992. A suit for injunction was filed as O.S.53/1992 before the Munsiff Court, Devikulam which was decreed. The possession could not be retained as there were continuous threat to the life of the petitioners. O.P.No.11343/1992 was filed before this Court for police protection, which was not granted observing that the re-entry in the property was without the assistance of court. It was also mentioned in the said judgment dated 22/6/1992 that the petitioners could execute the decree for getting back possession. There were several trespassers who filed 15 suits against the 1st petitioner in 1999. The said suits were dismissed. Later, the

petitioners came to know that pattas were issued in favour of certain encroachers. Hence the petitioners filed a petition before the Tahsildar, Devikulam for cancellation of fraudulent pattas. Further petitioners filed the execution petition as E.P.No.89/2003 in O.S.No.523/1983 before the Sub Court, Thodupuzha. Delivery was ordered as per order dated 18/02/2006 in E.A.No.15/2006. Amin was directed to deliver possession of the property to the petitioners on 01/04/2006 with the help of Taluk Surveyor. When the petitioners proceeded to the property to execute the order, more than 13 persons prevented the Amin and party from entering the land for survey and delivery of the property. The Amin reported the matter to the Execution Court. Ext.P45 is the said report. The Taluk Surveyor also filed a report before Court as Ext.P46. A private complaint was filed in the matter and the police has filed final report against the accused as C.C.No.551/2006 before the Judicial First Class Magistrate Court, Devikulam. It is stated that there is obstruction to enter the property and unless the road access is reopened after removing the obstruction, the vehicular access to the property will not be possible. Some of the accused were acquitted in

C.C.No.551/2006. Ext.P50 is the judgment. Petitioners submit that they were dispossessed only on account of the directions issued by this Court in the police protection matter in O.P.No.10594/1987. The petitioners submit that the Execution Petition was later withdrawn as it was found that the Execution Court should be the Sub Court, Kottayam and accordingly E.P.No.89/2003 was withdrawn. Petitioners had also taken appropriate steps to remove the illegal and unauthorised encroachers in the land by approaching the District Collector and also the police. But no action has been taken by any of them. It is stated that the encroachers are criminals having political support. Despite the fact that the decree in O.S.No.523/1983 was dismissed, petitioners are unable to enter the property. They were evicted by way of police protection granted by the civil court and therefore the request of the petitioners is that police protection may be granted to restore the property in their favour. On these facts, the above reliefs are sought.

4. 1st petitioner has appeared in person and made submissions. We heard the learned Government Pleader also. As far as relief Nos.2, 3 and 4 are concerned, we do not think that

this Court will be justified in issuing any such direction in a police protection matter. It shall always be open for the petitioners to approach the competent court or authorities for taking such steps in the matter.

5. As far as relief No.1 is concerned, no doubt, if the petitioners had been dispossessed based on a judgment of a civil court, definitely the civil court can direct restoration of the property to the petitioners. As rightly contended by the party in person, they were evicted from the property by virtue of an order of police protection in O.P.No.10954/1987 which is evident from Ext.P4 judgment itself. However, it is pointed out that in addition to the defeated plaintiffs, there are other encroachers in possession of the property who claim to remain in possession on pattas granted in their favour which are also sought to be cancelled.

6. If such persons are transferees/occupants of the property during the pendency of the lis between the parties in O.S.No.523/1983, it is for the Execution Court to consider their right and pass appropriate orders. This Court cannot adjudicate on such issues in a matter in which the prayer is to grant police

protection. However, it is open for the petitioners to approach appropriate Execution Court and seek restoration of their property and in the process of considering the petition under Section 144 of the Code of Civil Procedure, the civil court can exercise such powers as available to it, taking into consideration the subsequent events as well.

7. Petitioners relied upon judgment of this court in **Harrisons Malayalam Ltd. v. State of Kerala and Others** [2010(3) KLT S.N.1 (Case No.1) and also **Jithesh v. State of Kerala** [2013(4) KLT 565] to contend that persons who have no right in respect of the property have trespassed into the property of the petitioners and therefore this Court will be justified in directing police protection. But, even according to the petitioners, some of them have been issued pattas by the Government. In such circumstances, it may not be possible for this Court to adjudicate on the question as to whether the pattas were fraudulently obtained or whether there is any illegality in the grant of pattas or whether they were occupants/trespassers of the property during the pendency of the case. Hence, it will be appropriate for the Execution Court to take into consideration the

entire aspects involved in the matter by directing restoration of possession. Civil court also will be justified in directing necessary police protection to ensure that the encroachers, during the pendency of the lis, are evicted from the property. The petitioners will have to approach the Civil court for appropriate orders.

Under such circumstances, we do not think that this Court will be justified in issuing any direction, as sought for and accordingly, this writ petition is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFIQUE, JUDGE)

jsr

