

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

WP(C).No. 18620 of 2014 (B)

PETITIONER(S):

1. **SRI.K.P.PRABHAKARAN,
S/O. KUTTIRAMAN, NANDANAM, PUTHIYANGADI P.O.,
KOZHIKODE - 673 021.**
2. **DAKSHAYANI,W/O.K.P. PRABHAKARAN,
NANDANAM, PUTHIYANGADI P.O.,
KOZHIKODE - 673 021.**
3. **BEENA,W/O.K.G. MANOJ KUMAR,
NANDANAM, PUTHIYANGADI P.O.,
KOZHIKODE - 673 021.**

BY ADV. SRI.E.NARAYANAN

RESPONDENT(S):

1. **THE STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF FOREST, SECRETARIAT,
TRIVANDRUM -695 001.**
2. **THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
(CUSTODIAN - BIO DIVERSITY ECOLOGICALLY FRAGILE
LANDS), FOREST HEAD QUARTERS,
VAZHUTHACAUD, TRIVANDRUM - 695 014.**
3. **THE DIVISIONAL FOREST OFFICER,
SOUTH WAYANAD DIVISION, PINANGODE ROAD,
KALPETTA, WAYANAD - 673 121.**

BY SPL. GOVT. PLEADER(FOREST) SRI.M.P.MADHAVANKUTTY

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-11-2015,THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE LOAN SANCTIONING ORDER FROM THE VYTHIRI AGRICULTURAL CO-OPERATIVE DEVELOPMENT BANK, DATED 14/03/1995 ISSUED TO THE IST PETITIONER.
- EXHIBIT-P2- TRUE COPY OF THE REPORT DATED 25/06/2002 PREPARED BY THE VILLAGE OFFICER, KUNNATHIDAVAKA.
- EXHIBIT-P3- TRUE COPY OF THE CERTIFICATE DATED 04/06/2003 ISSUED BY THE VILLAGE OFFICER.
- EXHIBIT-P4- TRUE COPY OF THE NOTICE DATED 24/05/2007 ISSUED BY THE POWER GRID CORPORATION TO THE IST PETITIONER.
- EXHIBIT-P5- TRUE COPY OF THE REPORT FILED BY THE ADVOCATE COMMISSIONER IN O.S 100/2006 ON THE FILE OF THE SUB COURT, SULTHAN BATHERI
- EXHIBIT-P6- TRUE COPY OF THE STATEMENT DATED 15/01/2009 SUBMITTED BY THE LAND REVENUE COMMISSIONER BEFORE THE PRINCIPAL SECRETARY TO THE GOVERNMENT.
- EXHIBIT-P7- TRUE COPY OF THE G.O(RT)NO. 4972/10/RD DATED 20/11/2010.
- EXHIBIT-P8- TRUE COPY OF THE REPORT DATED 31/03/2012 OF THE ADDITIONAL TAHSILDAR, VYTHIRI TALUK.
- EXHIBIT-P9- PHOTOGRAPHS SHOWING VARIOUS PORTIONS OF THE PETITIONER'S PROPERTY.
- EXHIBIT-P10- TRUE COPY OF THE COMMUNICATION DATED 16/11/2011 FROM THE PRINCIPAL SECRETARY TO THE GOVERNMENT TO THE CUSTODIAN OF VESTED FORESTS, PALAKKAD.
- EXHIBIT-P11- TRUE COPY OF THE KERALA GAZETTE NOTIFICATION NO. EFL 10-311/2013 DATED 2610-13.
- EXHIBIT-P12- TRUE COPY OF THE NOTICE DATED 10/02/2014 ISSUED BY THE DIVISIONAL FOREST OFFICER, SOUTH WAYANAD.
- EXHIBIT-P13- TRUE COPY OF THE REPRESENTATION DATED 25/02/2014 SUBMITTED BY THE PETITIONER BEFORE THE FOREST RANGE OFFICER.
- EXHIBIT-P14- TRUE COPY OF THE SAID COMMUNICATION DATED 14/05/2014 ISSUED FROM THE OFFICE OF THE PRINCIPAL CHIEF FOREST CONSERVATOR.
- EXHIBIT-P15- TRUE COPY OF THE REVISION SUBMITTED BY THE IST PETITIONER BEFORE THE SECOND RESPONDENT.

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- EXHIBIT-P16- TRUE COPY OF THE REVISION SUBMITTED BY THE 2ND PETITIONER BEFORE THE SECOND RESPONDENT
- EXHIBIT-P17- TRUE COPY OF THE REVISION SUBMITTED BY THE 3RD PETITIONER BEFORE THE SECOND RESPONDENT.
- EXHIBIT-P18- TRUE COPY OF THE BILL ISSUED BY THE COURIER COMPANY EVIDENCING DISPATCH OF EXT-P15 TO 17 REVISIONS.
- EXHIBIT-P19- TRUE COPY OF THE RELEVANT PAGE OF THE CONSIGNMENT TRACKING SITE OF DTDC COURIER COMPANY
- EXHIBIT-P20- TRUE COPY OF THE NOTICE ISSUED UNDER SEC. 160 OF THE CRPC, DATED 12/02/2014.
- EXHIBIT-P21- TRUE COPY OF THE FOREST OFFENCE CHARGE SHEET SUBMITTED BY THE RANGE FOREST OFFICER, KALPETTA RANGE, BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, KALPETTA.
- EXHIBIT-P22- TRUE COPY OF THE SAID INTERIM ORDER DATED 06/05/2014 OF THIS HON'BLE COURT IN W.P(C) .NO.11991/2014.
- EXHIBIT-P23- TRUE COPY OF THE NOTICE DATED 09/07/2015 ISSUED FROM THE CUSTODIAN (EFL), THIRUVANANTHAPURAM.
- EXHIBIT-P24- TRUE COPY OF THE NOTICE DATED 21/07/15 ISSUED TO THE CUSTODIAN (EFL), THIRUVANANTHAPURAM
- EXHIBIT-P25- TRUE COPY OF THE REPLY NOTICE DATED 19/08/15 ISSUED BY THE SECOND RESPONDENT
- EXHIBIT-P26- TRUE COPY OF THE ERRATUM NOTIFICATION EFL 10-40/13 DATED 17/02/15
- EXHIBIT-P27- TRUE COPY OF THE LIST OF INDIVIDUALS AND THEIR RESPECTIVE LANDS WITH RE-SURVEY NUMBER PREPARED BY THE THAHASILDAR VYTHIRI AS SENT BY HIM TO THE DISTRICT COLLECTOR, WAYANAD
- EXHIBIT-P28- TRUE COPY OF THE RELAVANT PAGE OF THE JOINT SURVEY REPORT WITH RESPECT TO THE LAND FALLING UNDER R.S.NO.187/1A1 OF KUNNATHIDAVAKA VILLAGE

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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Dated this the 23rd day of November, 2015

J U D G M E N T

The writ petitioners are having properties in Re.Sy.No.425/1, 426/2, 427/1 and 427/6 in Mandamala in Lakkidi of Block No.25 of Kunnathidavaka Village, Vythiri Taluk, Wayanad District. This was originally included in the notification issued under the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003. It is submitted by the petitioners as well as the Special Government Pleader for Forest that the above land belongs to the petitioners and are excluded as per Ext.P26, Erratum notification.

2. It is to be noted that the petitioners have been permitted to do the agricultural activities in the land as per the interim order of this Court. The petitioners submit that the Forest officials shall return the possession taken from him.

3. The Special Government Pleader for Forest submits

that they have not taken the possession. Considering the facts and circumstances, the following directions are issued:

The petitioners shall be continued in possession of the land in question. If the revenue records shows that Forest department is the owner of the property, the petitioners shall approach the revenue officials. Thereafter the revenue officials after issuing notice to the petitioners and Forest Department shall correct the revenue records in accordance with law.

The writ petition is disposed of, as above.

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A.MUHAMED MUSTAQUE, JUDGE