

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No.21679 of 2014 (H)

PETITIONER:

**K.A.SATHYANARAYANAN,S/O.LATE V.KRISHNAN NAIR,
AGED 74 YEARS,SATHYA ESTATE,VYLOOR,
SHOLAYUR AMSOM & DESOM,P.O.AGALI,
MANNARKKAD TALUK,PALAKKAD DISTRICT.**

**BY ADVS.SRI.R.MANOJ
SMT.SINDHU MANOJ
SMT.P.P.BLESSY MOL
SMT.K.V.HAZEL**

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF FOREST,
STATE SECRETARIAT,
THIRUVANANTHAPURAM - 695 033.**
- 2. THE DIVISIONAL FOREST OFFICER,
MANNARKKAD,PALAKKAD - 679 010.**
- 3. THE RANGE OFFICER,AGALI,PALAKKAD - 679 560.**

**BY GOVT. PLEADER SRI.JOSEPH GEORGE
BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR
FOREST**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No.21679 of 2014 (H)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1:TRUE COPY OF THE ORDER IN O.A.NO.78 OF 1978 OF THE FOREST TRIBUNAL,MANJERI DATED 20.06.1979.

EXHIBIT P2:TRUE COPY OF THE ORDER IN I.A.NO.201/1987 IN O.A.NO.78 OF 1978 BEFORE THE FOREST TRIBUNAL.

EXHIBIT P3:TRUE COPY OF THE JUDGMENT IN M.F.A.NO.227 OF 1989 OF THIS COURT DATED 02.08.2000.

EXHIBIT P4:TRUE COPY OF THE JUDGMENT IN O.S.NO.23 OF 2007 OF THE SUB COURT,OTTAPALAM.

EXHIBIT P5:TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER ALONG WITH ITS ANNEXURES.

EXHIBIT P6:TRUE COPY OF THE ORDER DATED 01.02.2014 OF THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:

ANNEXURE-R3(a):TRUE COPY OF NOTIFICATION S.R.O NO.713/2006 PUBLISHED IN THE KERALA EXTRA-ORDINARY DATED 4.10.2006.

//TRUE COPY//

P.S.TO JUDGE

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P.R.RAMACHANDRA MENON, J.

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W.P.(C) No.21679 of 2014

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Dated this the 20th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:-

"1. Issue a writ of Certiorari or any other appropriate writ, direction or order calling for the records leading to Exhibit P6 order of the 3rd respondent and quashing the same.

ii) issue a writ of Mandamus or any other appropriate writ, direction or order commanding the respondents to permit the petitioner to cut and remove trees as prayed for in Exhibit P5."

2. A statement has been filed from the part of the 3rd respondent mainly pointing out that the area has already been notified under the Kerala Promotion of Tree Growth in Non Forest Areas Act,2005 and as such, no standing tree in the land could be cut and removed. The sum and substance of the case is that the property concerned was the subject matter of O.A.No.78/1978 before the Forest Tribunal, Manjeri and by virtue of Exts.P1 and P2 orders passed by the Tribunal, the petitioner is entitled to have the property restored. Though the

matter was challenged by the State/Department by M.F.A.No.227/1989 and the same came to be dismissed vide Ext.P3. Despite the lapse of several years the property is still to be restored to the petitioner and this made the petitioner to approach this Court by filing the writ petition with the prayers as above.

3. It is in response to the case projected by the petitioner as above that the respondents have now come up with the statement pointing out that trees cannot be cut and removed by virtue of subsequent events.

4. The main contention of the petitioner was that Ext.P6 order passed by the Range Officer dated 01.02.2014 rejecting the application dated 7.09.2013 for permission to cut and remove the trees is not correct or sustainable in the case of the petitioner, so far as no notification has actually been published pursuant to the direction given by this Court.

5. A copy of the notification has been produced from the part of the respondents as Annexure R3(a) along with I.A.No.1404 of 2015. The said document reveals that necessary publication was already effected in the Kerala Gazette dated

04.10.2006. This being the position and so far as the said notification is not under challenge, no relief can be granted in the present writ petition. Accordingly, the writ petition stands dismissed.

**P.R.RAMACHANDRA MENON,
JUDGE**

sj