

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WP(C).No. 35201 of 2004 (N)

PETITIONER(S):

**V.V.GOPIKARAMANAN, S/O LATE V.P.VELAPPAN
VAIKATH POTTA, MELARCODE, ALATHUR TALUK
PALAKKAD DISTRICT.**

**BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P**

RESPONDENT(S):

**DIVL.FOREST OFFICER,
NENMARA DIVISION, PALAKKAD DISTRICT.**

BY ADV.T.J.MICHAEL, SPECIAL GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- P1 : COPY OF THE ORDER DATED 24.02.1983 PASSED IN OA 249/80 ON THE FILE OF FOREST TRIBUNAL, PALAKKAD
- P2 : COPY OF HTE COMMISSION REPORT DATED 03.06.1998 FILED IN OA 240/80 ON THE FILE OF FOREST TRIBUNAL, KOZHIKODE (CAMP AT PALAKKAD)
- P3 : COPY OF THE SURVEY SKETCH PRODUCED ALONGWITH EXT.P2 COMMISSION REPORT PREPARED BY THE VILLAGE OFFICER.
- P4 : COPY OF HTE ORDER DATED 14.10.98 PASSED IN IA 129/97 IN OA 240/80 ON THE FILE OF FOREST TRIBUNAL, KOZHIKODE (CAMP AT PALAKKAD)
- P5 : COPY OF THE PETITION DATED 23.10.2003 SUBMITTED BEFORE THE RESPONDENT BY THE PETITIONER
- P6 : COPY OF THE NOTICE DATED 30.06.08 SENT BY THE RESPONDENT
- P7 : COPY OF THE OBJECTION AND AFFIDAVIT DATED 18.09.2008 FILED BEFORE THE CUSTODIAN AS CONTEMPLATED IN KERALA FOREST (VESTING & MANAGEMENT OF ECOLOGICAL FRAGILE LAND) ACT, 2003
- P8 : COPY OF THE PETITION DATED 13.11.08 FILED BEFORE THE CUSTODIAN
- P9 : COPY OF THE NOTICE DATED 05.01.09 ISSUED BY THE RESPONDENT
- P10 : COPY OF HTE PETITION DATED 09.02.10 SUBMITTED BY THE PETITIONER BEFORE THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS, THIRUVANANTHAPURAM
- P11 : COPY OF THE NOTICE DATED 01.03.2010 ISSUED BY THE PRINCIPAL CHIEF FOREST CONSERVATOR
- P12 : COPY OF THE PETITION DATED 31.03.2010 SUBMITTED BEFORE THE PRINCIPAL CHIEF FOREST CONSERVATOR
- P13 : COPY OF THE SUBMISSION DATED 15.01.2013 MADE BY THE PETITIONER

(CNTD)

RESPONDENTS' EXHIBITS:

- R1(A) : COPY OF THE NOTIFICATION NO.C6.21437/2000 DATED 21.04.2001 OF THE CHIEF CONSERVATOR OF FORESTS AND CUSTODIAN, THIRUVANANTHAPURAM**
- R2(B) : COPY OF LETTER NO.A3.6965/03 DT.27.10.03 OF DIVISIONAL FOREST OFFICER, NEMMARA, ADDRESSED TO THE PETITIONER**
- R1(C) : PHOTOGRAPHS OF THE DISPUTED AREA**
- R1(D) : COPY OF THE FULL BENCH DECISION OF THIS HONOURABLE COURT**

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRA, J.

W.P.(C) No.35201 of 2004

Dated this the 20th day of July, 2015

JUDGMENT

The petitioner has filed this writ petition seeking a writ of mandamus commanding the respondent, namely the Divisional Forest Officer, Nenmara Division, Palakkad to dispose of Ext.P5 representation dated 23.10.2003 and to restore the property involved in O.A. No.240/1980 on the file of the Forest Tribunal, Kozhikode (Palakkad Camp) to the petitioner, within a time limit to be fixed by this Court.

2. The respondent has filed a counter affidavit, as early as on 12.01.2005, after serving a copy of the same to the learned counsel for the petitioner, producing therewith Ext.R1(b) communication dated 27.10.2003 by which the request made by the petitioner in Ext.P5 representation has already been rejected, much prior to the filing of this writ petition.

3. A reading of Ext.R1(b) would show that the land in question has already been notified as an Ecologically Fragile Land and a notification to that effect has also been published in

Government Gazette dated 21.04.2001. When the request made by the petitioner in Ext.P5 representation for restoration of the property in question has already been rejected by Ext.R1(b) communication issued by the respondent, much prior to the filing of the writ petition, he is not entitled for the reliefs sought for in this writ petition in the absence of any challenge made to Ext.R1(b).

4. Now, alongwith I.A. No.9428/2015, which is an application filed under Rules 150 and 154 of the Kerala High Court Rules, the petitioner is seeking an order to accept the documents produced therewith as additional documents and also to pass appropriate orders for disposal of the petitions referred to therein. A reading of the affidavit accompanying the aforesaid applicaiton would show that, during the pendency of this writ petition, after notifying the land as an 'Ecologically Fragile Land', proceedings were issued against the petitioner by invoking the provisions under the Kerala Forest (Vesting & Management of Ecologically Fragile Land) Act, 2003. If the petitioner is having any grievance against such proceedings, it is for him to take appropriate legal proceedings against such proceedings, which cannot be brought within the purview of the

subject matter of this writ petition.

5. In the result, this writ petition is dismissed, holding that in view of Ext.R1(b) communication issued by the respondent, the reliefs sought for in this writ petition cannot be granted.

It is made clear that the dismissal of this writ petition will not stand in the way of the petitioner taking any legal proceedings, in accordance with law, against the proceedings initiated under the provisions of the Kerala Forest (Vesting & Management of Ecologically Fragile Land) Act, 2003.

SD/-
ANIL K. NARENDRAN,
JUDGE

JV