

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 23287 of 2014 (I)

PETITIONER :

**M.S AZHWAR,
S/O.MADHAVAN, CONVENER,
PINNOKKA VARGA BHOORAHITHA SAMITHY,
SABHAKKATTIL HOUSE, VAYALA POST, ELAKKADU VILLAGE,
MEENACHIL TALUK, KOTTAYAM DISTRICT, PIN-686 587**

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY
TO REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001**
- 2. THE PRINCIPAL SECRETARY,
THE FOREST AND WILD LIFE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001**
- 3. THE DISTRICT COLLECTOR,
IDUKKI DISTRICT, PYNAVU P.O, IDUKKI -685 603.**
- 4. THE TAHSILDAR,
UDUMBANCHOLA TALUK, UDUMBANCHOLA P.O,
IDUKKI DISTRICT -685 554**

BY SPL.GOVERNMENT PLEADER SMT. SUSHEELA BHAT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE LIST CONTAINING THE NAME AND ADDRESS OF THE 92 PERSONS/ FAMILIES, WHO WERE EVICTED FROM KANJIKUZH VILLAGE ON 14-7-91 IN CONNECTION WITH THE CONSTRUCTION OF THE LOWER PERIYAR HYDRO ELECTRIC PROJECT
- EXT.P2 - TRUE COPY OF LETTER DATED 29-12-04 OF 2ND RESPONDENT COMMUNICATED TO PETITIONER
- EXT.P3 - TRUE COPY OF JUDGMENT DATED 21-6-12 IN WPC NO.593/2011 OF THE HON'BLE HIGH COURT
- EXT.P4 - TRUE COPY OF LETTER DATED 14-12-11 OF THE PUBLIC INFORMATION OFFICER AND DEPUTY TAHSILDAR IN THE TALUK OFFICE AT UDUMBANCHOLA COMMUNICATED TO PETITIONER
- EXT.P5 - TRUE COPY OF PETITIONER'S LETTER DATED 25-1-12 FORWARDED TO 4TH RESPONDENT
- EXT.P6 - TRUE COPY OF LETTER NO.H3. 10046/2013 DATED 4-6-13 OF 4TH RESPONDENT FORWARDED TO 3RD RESPONDENT
- EXT.P7 - TRUE COPY OF 3RD RESPONDENT LETTER NO.C.16027/2003 DATED JANUARY 2014 FORWARDED TO FIRST RESPONDENT
- EXT.P8 - TRUE COPY OF PETITIONER'S LETTER DATED 30-1-14 FORWARDED TO 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS

- EXT.R3(A) COPY OF THE GOVERNMENT LETTER NO.11326/A2/14/REV. DATED 22/5/2014 TO THE DISTRICT COLLECTOR, IDUKKI
- EXT.R3(B) COPY OF THE LETTER DATED 10/11/2014 OF THE DISTRICT COLLECTOR TO THE TAHSILDAR, UDUMBANCHOLA
- EXT.R3(C) COPY OF THE LETTER DATED 03/12/2014 ISSUED TO THE LAND REVENUE COMMISSIONER BY THE DISTRICT COLLECTOR

/TRUE COPY/

P.A.TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 17th day of June, 2015

J U D G M E N T

The petitioner, a Convenor of a Samithi is before this Court ventilating the grievance of 92 families, who are said to have been evicted from the lands of Kanjikuzhy Village at Thodupuzha Taluk on 14.07.1971 in connection with the construction of the Lower Periyar Hydro-Electric Project. The petitioner's contentions are that each of the families so evicted were entitled to one hectare each, as has been assigned to 32 Scheduled Tribe families, who also were evicted from the land for the Project. The petitioner claims that despite Ext.P3 judgment, nothing has been done so far and the petitioner had pointed out various lands which were available for assignment and the Government is dragging its feet in the matter.

2. The learned Special Government Pleader (Revenue)

however submits that the actual issue of entitlement is to be verified at the time of assignment, looking at the eligibility of each family as has been held in Ext.P3 judgment. In any event, 15 Acres have been identified and it is submitted that 15 cents each would be assigned to each of the 92 families. The petitioner's contention however is that, the 92 families are entitled to get one hectare each and the first 15 should be allotted their entitlement from the lands now identified and in future there should be identified further extent of lands for assignment.

3. Primarily, it is to be noticed that this Court had considered the claim on going through the pleadings and materials on record in Ext.P3 judgment, which is extracted hereunder:

I have also gone through the pleadings and the materials on record. Shorn of details, the claim made by the petitioner on behalf of 92 families who were actually squatters on Government land and were evicted in July 1971 when the Lower

Periyar Hydro-Electric Project was commissioned, is that each family should be assigned one hectare of land each. The petitioner has not chosen to give the extent of land which each of the 92 families were previously in possession of. It is not known whether the families were in possession of small parcels of land or large tracts of land. In any case, there is no material on record to establish the claim of the petitioner that all the 92 persons named in Ext.P10 list were in possession of lands and were evicted for the purpose of Lower Periyar Hydro-Electric Project. The question whether all the 92 persons named in Ext.P10 list are entitled to assignment of lands for the reason that they were evicted for the purpose of Lower Periyar Hydro-Electric Project is matter which will have to be verified at a later stage as and when lands are available for assignment.

4. The petitioner's contention is that Ext.P4 an information received under the Right to Information Act, would indicate the entitlement of each of these persons. It is to be noticed that Ext.P4 was available even when the earlier writ petition was heard. This Court cannot take a different view from the earlier view taken by another learned single Judge of this Court in Ext.P3. In any event, the counter affidavit of the Government specifically speaks of 15 Acres of land identified in

Udumbanchola Taluk in Idukki. The District Collector identified the said 15 Acres and it was his suggestion that the above land be distributed to 15 families, considering their eligibility. As per the recommendation of the Land Revenue Commissioner, out of 15 Acres, 15 cents each could be assigned to the 92 evicted families. Government having examined the matter is said to have decided to accept the recommendation of the Land Revenue Commissioner to give 15 cents each to 92 families subject to eligibility, who were evicted in 1971 for the purpose of Lower Periyar Hydro-Electric Project.

5. In such circumstance the individual petitioners would have to claim their eligibility on the basis of records as to the land from which they were evicted, before the Government. The petitioner cannot be permitted to ventilate the grievance of all the 92 families, since their individual entitlement is first to be decided. The Government would have to decide the issue after

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issuing notice to each of the families and after deciding the eligibility of each of such families who were evicted.

The writ petition would stand dismissed leaving open the remedies of each of the individuals surviving of the 92 families to approach the Government for assignment. No costs.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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// true copy //

P.A to Judge.