

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 26152 of 2015 (T)

PETITIONER:

**BENNY THOMAS, AGED 50 YEARS,
S/O.THOMAS CHACKO, PULLIPPADAM.P.O,
MAMBADU, NILAMBUR.**

**BY ADVS.SRI.M.A.ABDUL HAKHIM
SRI.C.A.ANAS**

RESPONDENTS:

- 1. DIVISIONAL FOREST OFFICER,
NILAMBUR NORTH, NILAMBUR.P.O,
MALAPPURAM DISTRICT, PIN-679329.**
- 2. FOREST RANGE OFFICER,
EDAVANNA RANGE, NILAMBUR, PIN-679329.**
- 3. THE VILLAGE OFFICER,
PULLIPPADAM, MAMBAD.P.O,
MALAPPURAM DISTRICT, PIN-679329.**

R BY SRI.THOMASKUTTY, SPL. GOVT. PLEADER(FOREST)

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-09-2015 ALONG WITH WPC.26160/2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : A PHOTOSTAT COPY OF THE SALE DEED NO.4638/1999 DATED OF SRO, NILAMBUR DATED 12.10.1999.
- P2 : A PHOTOSTAT COPY OF THE APPLICATION TO THE 1ST RESOPONDENT FOR FOREST NO OBJECTION CERTIFICATE DATED 1.2.2014.
- P3 : A PHOTOSTAT COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 11.3.2015.
- P4 : A PHOTOSTAT COPY OF THE LAND ASSIGNMENT ORDER ISSUED BY THE VESTED FOREST LAND ASSIGNMENT SPECIAL TAHSILDAR, NILAMBUR DATED 8.1978.
- P5 : A PHOTOSTAT COPY OF THE CIRCULAR ISSUED BY THE REGISTRATION INSPECTOR GENERAL DATED 20.5.2014.
- P6 : A PHOTOSTAT COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 21.6.2013.
- P7 : A PHOTOSTAT COPY OF THE SALE DEED NO.6770/1986 OF SRO, NILAMBUR DATED 23.9.1986.
- P8 : A PHOTOSTAT COPY OF THE PURCHASE CERTIFICATE NO.140/1980 OF LAND TRIBUNAL,NILAMBUR DATED 30.12.1980.
- P9: A PHOTOSTAT COPY OF THE REPORT OF THE 2ND RESPONDENT DATED 26.2.2014.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P.(C).Nos.26152/2015 and 26160/2015

Dated this the 30th Day of September, 2015

J U D G M E N T

The writ petitions are filed by the same petitioner. The issue involved in both the cases is similar and hence dealt with together.

2. The petitioner wants to register the documents in respect of the property covered by the respective title deeds. The petitioner submits that he approached the Forest Officials with a request for issuance of no-objection certificate which was rejected stating that the aforesaid property is a vested forest allotted to a Tribal by the Revenue Department.

3. This Court in similar circumstances, by judgment in W.P.(C). No.30575/2012 and connected case, dated 02/01/2013, after referring to the dictum laid down by a Division Bench of this Court reported in **2010 (1) KLT 508 [Selvan v. State of Kerala]** held in para.5 as follows:

“After hearing both sides and also perusing the materials on record, this Court finds that the issue is squarely covered by the judicial precedents as mentioned above and the petitioners are entitled to succeed. The concerned Registering Authority is directed to register the relevant deed on production of the same and satisfaction of all the other requirements in tune with the relevant provisions of law, without insisting for ‘NOC’ from the Forest Department. It is also made clear that, it will be open for the Forest Department to proceed against the property, if there is any

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infringement in relation to any of the provisions of the Forest Act or such other related enactments.”

4. In view of the above judgment, this Court is of the view that for causing registration of the aforesaid property, no-objection certificate from the Forest Department is not a pre-requisite. However, it is open for the Forest Department to proceed against the property, if there is any infringement in relation to any of the provisions of the Forest Act or such other related enactments.

The writ petitions are disposed of as above. No costs.

Sd/-

(A.MUHAMED MUSTAQUE, JUDGE)

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