

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No.28205 of 2014 (A)

PETITIONER:

**T.M.KRISHNAKUMAR,AGED 42 YEARS,
S/O.MADHAVAN,THADATHIL,PUNNAYAR,
KANJIKUZHI PANCHAYATH,IDUKKI DISTRICT.**

**BY ADVS.SRI.K.S.HARIHARAPUTHRAN
SRI.M.D.SASIKUMARAN
SRI.GEORGE MATHEW
SRI.SUNIL KUMAR A.G
SRI.DIPU JAMES**

RESPONDENTS:

- 1. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
FOREST AND WILD LIFE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,IDUKKI DISTRICT,
CIVIL STATION,KUYILIMALA,IDUKKI-685 603.**
- 3. THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE,MUNNAR DIVISION,
IDUKKI-685 612.**
- 4. THE TAHSILDAR,IDUKKI TALUK,TALUK OFFICE,
IDUKKI-685 603.**
- 5. THE FOREST RANGE OFFICER,
FOREST STATION,NERIAMANGALAM RANGE,
NERIAMANGALAM P.O.,IDUKKI DISTRICT-686 693.**
- 6. THE DEPUTY FOREST RANGE OFFICER,
FOREST STATION,KARIMANAL P.O.,
IDUKKI DISTRICT-685 603.**
- 7. VILLAGE OFFICER,VILLAGE OFFICE,
KANJIKUZHI VILLAGE,IDUKKI DISTRICT-685 602.**

BY SPECIAL GOVT.PLEADER SMT.SUSHEELA BHAT FOR RESPONDENTS

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No.28205 of 2014 (A)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF POSSESSION CERTIFICATE DTD.3.3.2008.

EXT.P2 : TRUE COPY OF TAX RECEIPT DTD.7.7.2010.

EXT.P3 : TRUE COPY OF PETITION DTD.28.7.2010.

EXT.P4 : TRUE COPY OF RECEIPT DTD.2.8.2010.

EXT.P5 : TRUE COPY OF DOCUMENT AND SKETCH DTD.16.6.2011.

EXT.P6 : TRUE COPY OF LETTER DTD.9.8.2009.

EXT.P7 : TRUE COPY OF PETITION DTD.23.9.2014.

EXT.P8 : TRUE COPY OF REPORT DTD.1.10.2014.

EXT.P9 : PHOTOGRAPH SHOWING THE NATURE OF DESTRUCTION DONE.

RESPONDENT'S EXHIBITS:

EXT.R3(a):TRUE COPY OF STATEMENT GIVEN BY MR.GOPI,S/O.NARAYANAN
ANDOOKUNNEL, THE EX-POSSESSOR OF THE PROPERTY,BEFORE
THE DEPUTY RANGE FOREST OFFICER,NAGARAMPARA FOREST
STATION.

EXT.R3(b):TRUE COPY OF MAHAZAR IN OR-7/14 OF NAGARAMPARA FOREST
STATION.

EXT.R3(c):TRUE COY OF FORM-I REPORT IN OR-7/14 OF NAGARAMPARA
FOREST STATION.

//TRUE COPY//

P.S. TO JUDGE

pk

P.R. RAMACHANDRA MENON J.

~~~~~

W.P.(C) No. 28205 of 2014

~~~~~

Dated, this the 7th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

"(i) To issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the respondents 1, 3, 5, 6 and person under them from encroaching upon the property covered by Ext. P5.

(ii) To issue a writ in the nature of mandamus or any other appropriate writ, order or direction commanding the respondents directing the 2nd respondent to consider and pass orders on Ext. P7 and fix the compensation amounts and release the amount to the petitioner.

(iii) To issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing the 2nd respondent to consider and pass orders on Ext. P7 after hearing the petitioner.

(iv) To grant such other reliefs and costs as this Hon'ble Court may deem fit and proper to grant in the nature and circumstances of the case.

2. The learned counsel for the petitioner submits that there is absolutely no rhyme or reason for the authorities of the Forest Department to have encroached into the properties of the petitioner and caused much damage, cutting and demolishing improvements/vegetations planted therein causing irreparable loss and hardships to the petitioner. It is brought to the notice of this Court that the grievance of the petitioner has already been projected before the District Collector/second respondent, vide Ext. P7 petition dated 23.09.2014. It is stated that pursuant to the direction of second respondent, though Ext. P8 report was filed by the 4th respondent, the matter is still to be considered. Hence the writ petition.

3. The learned counsel also points out that version of the respondents that the petitioner has encroached into the forest property is not correct and that his activities are confined only in respect of the property covered by Ext. P5. The said submission is sought to be rebutted by the learned special Government Pleader.

4. After hearing both the sides, this Court finds that, reports have been called for from all the authorities concerned, including that of the Forest Department and as such, the matter has to be finalized by the second respondent. Accordingly, there will be a

direction to the second respondent to consider and pass appropriate orders on Ext. P7; with reference to the impugned action sought to be intercepted, the claim as to the right over the property covered by Ext. P7 and the report stated as called for vide Ext. P8. The proceedings as above shall be finalized, after hearing both the sides and also the authorities of the Revenue Department, at the earliest, at any rate, within three months from the date of receipt of a copy of this judgment. It is made clear that this will not cause any hindrance to the proceedings pending in O.R. No. 7 of 2014 Nagarampara Forest Range.

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the second respondent for further steps.

The Writ Petition is disposed of.

Sd/-

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

kmd