

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No.33020 of 2014 (B)

PETITIONER:

**K.A.SIVARAMANUNNI,
CHOCKATH MUKUNDALAYAM,
MELAZHI,THOLANNUR P.O,
ALATHUR PALAKKAD - 678 722,
POWER OF ATTORNEY HOLDER OF
LEGAL HEIRS OF MATHU AMMA.**

**BY ADVS.SRI.P.BABU KUMAR
SRI.VISHNU BABU.**

RESPONDENTS:

- 1. THE CUSTODIAN (ECOLOGICALLY FRAGILE LAND) &
PRINCIPAL CHIEF CONSERVATOR OF FORESTS (EXTW),
FOREST HEAD QUARTERS,VAZHUTHAKKAD,
THIRUVANANTHAPURAM-695 014.**
- 2. DIVISIONAL FOREST OFFICER,
NENMARA P.O,PALAKKAD - 678 508.**
- 3. CHIEF FOREST CONSERVATOR,
EASTERN CIRCLE,OLAVAKKOD,PALAKKAD-678002.**

BY SRI.M.A.THOMAS KUTTY, SPL.GOV'T. PLEADER FOR FOREST

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1-TRUE PHOTOCOPY OF THE POWER OF ATTORNEY EXECUTED BY THE
LEGAL HEIRS OF MATHU AMMA IN FAVOUR OF PETITIONER
DATED 11-7-2012.**

**EXT.P2-TRUE PHOTOCOPY OF THE ORDER IN OA NO.115/76 OF THE FOREST
TRIBUNAL PALAKKAD DATED 9-2-1979.**

**EXT.P3-TRUE PHOTOCOPY OF THE INTIMATION ISSUED BY THE 3RD
RESPONDENT DATED 24-12-2005.**

**EXT.P4-TRUE PHOTOCOPY OF THE PROPOSAL WAS SUBMITTED BY THE
FOREST RANGE OFFICER TO 2ND RESPONDENT DATED 29-12-11.**

**EXT.P5-TRUE PHOTOCOPY OF THE APPLICATION SUBMITTED BY THE
PETITIONER DATED 25-6-2014.**

**EXT.P6-TRUE PHOTOCOPY OF THE DIRECTION ISSUED BY THE 1ST
RESPONDENT DATED 18-8-2014.**

**EXT.P7-TRUE PHOTOCOPY OF THE DIRECTION ISSUED BY THE 3RD
RESPONDENT TO THE 2ND RESPONDENT DATED 12-9-2014.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 33020 of 2014

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Dated, this the 8th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the 1st respondent to take a decision on Ext. P5 application after conducting inspection, considering the documents produced by the petitioner at the time of inspection and after hearing the petitioner within a time frame.
- ii) Issue a direction to the 3rd respondent to restore one hector of property mentioned in Ext. P3 & P4.
- iii) Issue any other appropriate order or direction which this Hon'ble Court deems fit and proper in the nature and circumstances of the case

2. The case of the petitioner is that property belonging to the petitioner was notified to be taken over by the Government by virtue of the Private Forest (Vesting and Assignment) Act. The petitioner approached the Forest Tribunal, Palakkad challenging notification by way of O.A. No. 115 of 1976, wherein Ext. P2 verdict was passed on

09.02.1979 allowing the case of the petitioner. But subsequently very same property was included in the Kerala Forest (Vesting and Management of Ecological Fragile Land) Act 2003, based on the notification issued in this regard. However in the course of further proceedings, the petitioner was let known by the second respondent as per Ext. P4 dated 29.12.2011 that a portion of the property was not forming part of the Ecological Fragile Land and that it could be restored to the petitioner. In the said circumstances, the petitioner filed Ext. P5 application dated 25.06.2014 before the first respondent. The learned counsel for the petitioner submits that the said application preferred under Rule 19 (3) (b) of the Kerala Forest (Vesting and Management of Ecological Fragile Land) Rules is still to be finalized. Hence the writ petition.

3. The learned Special Government Pleader appearing for the respondents submits that further proceedings are being pursued in connection with Exts. P4 and P5. It is stated that a 'five member committee' has to be constituted in terms of Rule 18 of the Rules and necessary sanction from the Government has also to be obtained and further that the proceedings will be finalized within

the shortest possible time. However, in view of the nature of land involved and the procedural formalities to be completed, six months' time is necessary to have such an exercise.

In the above circumstances, the writ petition is disposed of directing the respondents to finalize the proceedings by taking necessary steps to give effect to the proposal in Ext. P4, passing appropriate orders on Ext. P5 for causing restoration of the property, if any, of the petitioner. The proceedings as above shall be completed, after giving an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this judgment.

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

sd/-

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

kmd