

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 33395 of 2014 (Y)

PETITIONERS:

**KRISHNAKUMAR.B., AGED 51 YEARS,
S/O.BHASKARAN NAIR, INDRASADANAM,
MEKKADU P.O., NEDUMPASSERY VILLAGE, ALUVA TALUK,
ERNAKULAM DISTRICT.**

BY ADV. SRI.M.S.RADHAKRISHNAN NAIR

RESPONDENTS:

- 1. THE CUSTODIAN OF VESTED FOREST AND CONSERVATOR OF FOREST
VESTED FOREST CIRCLE, KOZHIKODE-673 001.**
- 2. DISTRICT SURVEY SUPERINTENDENT,
PALAKKAD-678 001.**
- 3. ADDITIONAL TAHSILDAR,
TALUK OFFICE, MANNARKADU, PALAKKAD DISTRICT-686 019.**
- 4. VILLAGE OFFICER,
KALLAMALA VILLAGE, PALAKKADU DISTRICT-678 582.**

*** ADDL. R5 & R6 ARE IMPEADED**

**ADDL. R5. DIVISIONAL FOREST OFFICER,
MANNARKADU - 678 582.**

**ADDL. R6. STATE OF KERALA, REPRESENTED BY ITS SECRETARY,
FOREST DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**

*** ADDL. RESPONDENTS 5& 6 ADDED AS PER ORDER DATED 12.01.2015 IN I.A.
228/2015**

**R1 SPL. GOVERNMENT PLEADER (FORESTS), SRI. M.A. THOMAS KUTTY
R BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR FORESTS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).No. 33395 of 2014 (Y)

APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT P1. - COPY OF THE ORDER NO. H1/596/2014 DATED 27.10.14 ISSUED
BY THE 3RD RESPONDENT.**
- EXHIBIT P2. - COPY OF THE APPLICATION DATED 10.11.14 SUBMITTED BY
THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P3. - COPY OF THE LETTER DATED 17.12.2014**

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.33395 of 2014

Dated this the 28th day of January, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i) Issue a writ of mandamus or any other writ, order or direction directing the 1st respondent to issue NOC, Pheriphery sketch and Kaippattu receipt mentioned in Ext.P2 as early as possible.

ii) Issue a writ of mandamus or any other writ, order or direction directing the respondents 2 to 4 to take all necessary steps to change the Thandapper number of the property purchased by him and issue land tax receipt and possession certificate in the name of the petitioner for 2 acres of property purchased by him in Sy. No.1841/Pt. R.S. No.1139/Pt of Kallamala Village, Mannarkkadu Taluk, as per Sale Deed No.581/09 without any delay.

Iii) Such other order as this Hon'ble Court deems fit and proper in the nature and circumstances of the case.

iv) Cost.

v) Issue a writ of mandamus or any other order directing the additional respondent No.5 to prepare the restoration proposal of the land involved in O.A. 59/78 of Forest Tribunal Manjeri forthwith and further a direction to the additional respondent No.6 to approve the restoration proposal and pass orders of restoration of the property within a time limit."

2. The case of the petitioner is that, as per Re-survey, the survey number of the petitioner's property is shown as 1139/Pt, which is a forest land. The petitioner's contention is that, the survey number of his property is 1841/Pt, which is a registered

holding. For correcting the same, the petitioner submitted an application before the Re-survey Superintendent, Ottappalam, which has not been acted upon. Hence, the petitioner had approached this Court by filing WP(C) No.27963 of 2013 and as per the direction in the said writ petition, the 3rd respondent passed Ext.P1 order. On receipt of the same, the petitioner preferred Ext.P2 application, which is pending consideration before the 1st respondent and hence the writ petition.

3. Heard the learned Government Pleader as well.

4. The 1st respondent had filed a statement, paragraph 7 of which is extracted below:

"It is humbly submitted that steps for restoration of the 3.52 hectares of property which was the subject matter of OA No.59/78 has been initiated and the approved sketch has been obtained from the Assistant Director, Forest Mini Survey, Kozhikode. The detailed proposal for the restoration of the property in OA No.59/78 has been submitted by the Range Forest Officer, Agali to the Divisional Forest Officer, Mannarkkad on 1.1.2015. On receipt of the restoration proposal, the Divisional Forest Officer has to conduct a field inspection. After field inspection and after scrutiny of the restoration proposal at the Division level, the proposal will have to be forwarded to the Custodian of Vested Forests. The Custodian also has to conduct a field inspection. After verification in the office of the Custodian, the restoration proposal has to be submitted to the Additional Principal Chief Conservator of Forests [Northern Region] for onward transmission to the Government. The Government has to approve the restoration proposal.

Only after obtaining Government sanction, the land can be formally restored to the applicant. The NOC can be issued by the Divisional Forest Officer, Mannarkkad only after the restoration process is completed."

5. After hearing both the sides, the writ petition is disposed of, directing the concerned respondents to consider and pass final orders on Ext.P2, after affording an opportunity of hearing to the petitioner, at the earliest, at any rate, within 'six months' from the date of receipt of a copy of this judgment. On finalisation of the proceedings as above, it will be open for the petitioner to approach the respondents 2 to 4 for change in Thandaper in respect of the property covered by Survey No. 1841/Pt. If any application is filed in this regard, satisfying the requirements in accordance with law, the proceedings shall be finalised at the earliest, at any rate within 'one month' thereafter.

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

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

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