

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

WP(C).No. 34814 of 2015 (B)

PETITIONER(S):

**K.B.RABIYATH,
W/O.PA.JALALUDHEEN, KILLIPARAMBIL HOUSE, NETTOOR P.O.
MARADU, ERNAKULAM DISTRICT,
REPRESENTED BY HER POWER OF ATTORNEY HOLDER,
K.B.SIDDICK, S/O.BUKHARY, PADATHU,
KILLIPARAMBIL HOUSE, NETTOOR P.O., MARADU,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.V.PHILIP MATHEW
SRI.GIBI.C.GEORGE**

RESPONDENTS:-:

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF FOREST& WILD LIFE,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,
PIN - 695 001.**
- 2. PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE PRINCIPAL
CHIEF CONSERVATOR OF FORESTS AND
HEAD OF FOREST FORCES
THIRUVANANTHAPURAM - 695 001.**
- 4. THE ADDL. PRINCIPAL CHIEF CONSERVATOR OF FORESTS (PLANNING),
OFFICE OF THE ADDL. PRINCIPAL CHIEF CONSERVATOR
OF FORESTS (PLANNING),
EASTERN CIRCLE & CUSTODIAN OF VESTED FORESTS,
OLAVAKKODE, PALAKKAD DISTRICT, PIN - 678 002.**
- 5. DISTRICT COLLECTOR,
PALAKKAD - 678 001.**

WP(C).No. 34814 of 2015 (B)

**6. THE DIVISIONAL FOREST OFFICER,
PALAKKAD - 678 001.**

**7. VILLAGE OFFICER,
KONGAD II VILLAGE, KONGAD,
PALAKKAD DISTRICT - 678 631.**

BY SPECIAL GOVERNMENT PLEFADER SRI.M.P.MADHAVANKUTTY

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1. COPY OF SALE DEED NO.2446/93.**
- P2. COPY OF SALE DEED NO.2456/93.**
- P3. COPY OF SALE DEED NO.2458/93.**
- P4. COPY OF SALE DEED NO.634/72.**
- P5. COPY OF SALE DEED NO.2720/58.**
- P6. COPY OF THE COMMON ORDER DATED 30.05.2006 PASSED BY THE FOREST TRIBUNAL, KOZHIKODE IN O.A.NO.32/04, O.A.33/04, O.A.34/04 ANBD O.A.35/04.**
- P7. COPY OF THE COMMON ORDER JUDGMENT DATED 14.03.2013 PASSED BY THIS HONBLE COURT IN M.F.A.NO.3/2007, 4/2007, 5/2007, AND 262/09.**
- P8. COPY OF THE REPRESENTATION DATED 18.10.2013 SUBMITTED BY THE PETITIONER ALONG WITH 3 OTHERS BEFORE THE 4TH RESPONDENT.**
- P9. COPY OF THE RECEIPT DATED 18.10.2013 ISSUED FROM THE OFFICE OF THE 3RD RESPONDENT.**
- P10. COPY OF THE REPRESENTATION DATED 21.10.2013 SUBMITTED BY THE PETITIONER AND 3 OTHERS BEFORE THE 7TH RESPONDENT.**
- P11. COPY OF THE COMMUNICATION DATED 07.11.2013 ISSUED BY THE 7TH RESPONDENT.**
- P12. COPY OF JUDGMENT DATED PASSED BY THIS HON'BLE COURT IN W.P(C) NO.727/13.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.34814 of 2015

Dated this the 18th day of November, 2015

JUDGMENT

The petitioner is the owner of 4 acres and 72 cents of land situated in survey Nos.294/2, 277/2, 284/4 and 296/6 of Kongad Village. It is submitted that this Court in Ext.P7 declared that the above properties are not private forest.

2. The petitioner submits that the revenue officials are bound to accept basic tax from the petitioner in respect of the above properties in the light of the judgment of this Court in Ext.P7.

3. The learned Government Pleader submits that the State has already moved Special Leave Petition before the Hon'ble Supreme Court challenging Ext.P7 judgment in MFA.Nos.3, 4 & 5 of 2007 and 262 of 2009.

4. I am of the view, basic tax shall be accepted from the petitioner without prejudice to the right of the State to challenge the judgment in the afore noted cases. Therefore, there shall be a

direction to the revenue officials to accept basic tax from the petitioner in respect of the properties covered in the above judgment subject to the outcome of any civil appeal filed by the Forest Department. It is made clear that till the above judgment is varied by the Hon'ble Supreme Court, petitioner's possession and enjoyment shall not be interfered by the authorities.

Writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ln