



2026:KER:12296

C. R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

MFA (FOREST) NO. 31 OF 2018

AGAINST THE ORDER DATED 30.11.2017 IN OA NO.1 OF 2008 OF FOREST
TRIBUNAL, KOLLAM

APPELLANTS/RESPONDENTS:

- 1 STATE OF KERALA
REP. BY THE CHIEF SECRETARY TO GOVERNMENT OF
KERALA, THIRUVANANTHAPURAM.
- 2 THE PRINCIPAL SECRETARY TO GOVERNMENT
FOREST AND WILD LIFE DEPARTMENT, THIRUVANANTHAPURAM.
- 3 THE CUSTODIAN (ECOLOGICALLY FRAGILE LANDS) AND
PRINCIPAL CHIEF CONSERVATOR OF FORESTS (E&TW),
STATE OF KERALA, THIRUVANANTHAPURAM.

BY ADV SHRI.NAGARAJ NARAYANAN, SPL. G.P. (FOREST)

RESPONDENT/APPLICANT:

KURIEN E. KALATHIL
PROPRIETOR, PONMUDI ESTATE, T.C.14/1004,
VAZHUTHACADU, THIRUVANANTHAPURAM- 695 014.

BY ADVS.
SMT.K.A.SANJEETHA
SHRI.ZAKEER HUSSAIN

THIS MFA (FOREST) HAVING COME UP FOR HEARING ON 11.02.2026,
ALONG WITH MFA (FOREST).42/2021, 75/2019 AND CONNECTED CASES, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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C. R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

MFA (FOREST) NO. 42 OF 2021

AGAINST THE ORDER DATED 22.03.2019 IN OA NO.79 OF 1994 OF

FOREST TRIBUNAL, KOZHIKODE

APPELLANTS/RESPONDENTS 1 & 2:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.
- 2 THE CUSTODIAN OF VESTED FORESTS,
CUSTODIAN'S OFFICE, OLAVAKKODE, PALAKKAD.

RESPONDENTS/APPLICANTS & SUPPL. APPLICANT AND SUPPL. RESPONDENTS

3, 4 AND 5:

- 1 MRS.UMAYAL CHETTYAPPAN,
W/O LATE M.CHETTYAPPAN RESIDING AT NO.9, ADAYAR CLUB
GATE ROAD, MADRAS-600028- REPRESENTED BY POWER OF
ATTORNEY HOLDER KURIEN E. KALATHIL, AGED 45 YEARS,
S/O EAPAN AND RESIDING AT C-10, JAWAHAR NAGAR, KOWDIAR,
THIRUVANANTHAPURAM-695003.
- 2 MRS. AZHAGU ANNAMALAI
W/O N. ANNAMALAI RESIDING AT NO.5, 1ST CROSS STREET,
INDIRA NAGAR, MADRAS- 600020- REPRESENTED BY POWER OF
ATTORNEY HOLDER KURIEN. E. KALATHIL, AGED 45 YEARS,
S/O EAPAN AND RESIDING AT C-10, JAWAHAR NAGAR, KOWDIAR,
THIRUVANANTHAPURAM-6395003.



- 3 MRS. MEYYAMMAI VENKATACHALAM,
W/O A. VENKATACHALAN, RESIDING AT NO.13/1, RANJITH
ROAD, KOTTUPURAM, MADRAS-600085, REPRESENTED BY POWER
OF ATTORNEY HOLDER KURIEN .E. KALTHIL, AGED 45 YEARS,
S/O EAPAN AND RESIDING AT C-10, JAWAHAR NAGAR, KOWDIAR,
THIRUVANANTHAPURAM-695003.
- 4 MRS. SIVAGAMI, MUTHUKARUPPAN,
W/O MUTHUKARUPPAN, RESIDING AT B BLOCK, OO5, RAHEJA
CENTRE, NO.1073, 1074, AVINASHI ROAD, COIMBATORE-
641018- REPRESENTED BY POWER OF ATTORNEY HOLDER KURIEN
E. KALATHIL, AGED 45 YEARS, S/O EAPAN AND RESIDING AT
C-10, JAWAHAR NAGAR, KOWDIAR, THIRUVANANTHAPURAM-
695003.
- 5 MISS.C. JAYALAKSHMI,
D/O LATE M. CHETTIYAPPAN, RESIDING AT NO.9, ADAYAR CLUB
GATE ROAD, MADRAS-600028- REPRESENTED BY POWER OF
ATTORNEY HOLDER KURIEN E. KALATHIL, AGED 45 YEARS, S/O
EAPAN AND RESIDING AT C-10, JAWAHAR NAGAR, KOWDIAR,
THIRUVANANTHAPURAM-695003.
- 6 C. SENDIL MEIYAPPAN (MINOR),
S/O UMAL CHETTYAPPAN, REPRESENTED BY HIS MOTHER -1ST
RESPONDENT THROUGH THE POWER OF ATTORNEY HOLDER KURIEN
E. KALATHIL, AGED 45 YEARS, S/O EAPAN AND RESIDING AT
C-10, JAWAHAR NAGAR, KOWDIAR,
THIRUVANANTHAPURAM-695003.
- 7 KURIEN E. KALATHIL,
S/O EAPAN, HAVING HIS OFFICE AT T.C.27/373-7, G.H.
ROAD, TRIVANDRUM AND AT PRESENT HAVING HIS OFFICE AT
T.C-15/1004, OPP. TRIDA (TRIVANDRUM DEVELOPMENT
AUTHORITY), VAZHUTHAKKADU, TRIVANDRUM-695010.
- 8 CATHERINE THOMAS,
W/O LATE K.T.THOMAS, BRIGHT HOUSE, KOZHIKODE-673014.
- 9 JOY THOMAS,
S/O LATE K.T. THOMAS, I.C AMPER PARK, C.S ROAD, KOCHI-
682011.



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MFA (FOREST) NO. 42 OF 2021

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10 DR. JOSE THOMAS,
S/O LATE K.T. THOMAS, BRIGHT HOUSE, KOZHIKODE-673014.

BY ADVS.
SRI.M.RAMESH CHANDER (SR.)
SMT.K.A.SANJEETHA
SMT.NISHA JOHN
SRI.BALU TOM
SHRI.ZAKEER HUSSAIN

THIS MFA (FOREST) HAVING COME UP FOR HEARING ON 11.02.2026,
ALONG WITH MFA (FOREST).31/2018 AND CONNECTED CASES, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



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C. R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

MFA (FOREST) NO. 75 OF 2019

AGAINST THE ORDER DATED 22.03.2019 IN OA NO.79 OF 1994 OF FOREST

TRIBUNAL, KOZHIKODE

APPELLANT/SUPPL. 7TH APPLICANT:

KURIEN E. KALATHIL,
AGED 72 YEARS,
S/O. EAPEN, HAVING HIS OFFICE AT T.C.27/373-7, G.H.
ROAD, TRIVANDRUM AND AT PRESENT HAVING HIS OFFICE AT
T.C.15/1004, OPPOSITE TRIDA, (TRIVANDRUM DEVELOPMENT
AUTHORITY), VAZHUTHACAUD, TRIVANDRUM - 10, (IMPLEADED
AS PER IA-276/97 AND AMENDMENT CARRY OUT AS PER IA-
277/97).

BY ADVS.
SMT.K.A.SANJEETHA
SHRI.ZAKEER HUSSAIN

RESPONDENTS 1 & 2/APPLICANTS 1 TO 6/SUPPL. RESPONDENTS 3 TO 5:

- 1 STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 THE CUSTODIAN OF VESTED FORESTS,
CUSTODIAN'S OFFICE, OLAVAKKODE, PALAKKAD - 678 002.



- 3 MRS.UMAYAL CHETTIYAPPAN,
W/O. LATE M. CHETTIYAPPAN, RESIDING AT NO.9,
ADAYAR CLUB GATE ROAD, MADRAS - 600 028.
- 4 MRS.AZHAGU ANNAMALAI,
W/O. N. ANNAMALAI, RESIDING AT NO.5, 1ST CROSS STREET,
INDIRA NAGAR, MADRAS - 600 020.
- 5 MRS.MEYYAMMAI VENKATACHALAM,
W/O. A. VENKATACHALAM, RESIDING AT NO.131,
RENJITH ROAD, KOTTUPURAM , MADRAS - 600 085.
- 6 MRS.SIVAGAMI MUTHUKARUPPAN,
W/O. K. MUTHUKARUPPAN, RESIDING AT B BLOCK, 005,
RAHEJA CENTRE, NO.1073, 1074, AVINASHI ROAD,
COIMBATORE - 641 018.
- 7 MISS. C. JAYALAKSHMI,
D/O. LATE M. CHETTIYAPPAN, RESIDING AT NO.9,
AYUR CLUB GATE ROAD, MADRAS - 600 028.
- 8 C. SENDIL MEIYAPPAN,
S/O. LATE M. CHETTIYAPPAN, RESIDING AT NO.9,
ADAYAR CLUB GATE ROAD, MADRAS - 600 028.
- 9 CATHERIN THOMAS, S/O. LATE K. T. THOMAS, BRIGHT HOUSE,
KOZHIKODE - 673 014.
- 10 JOY THOMAS,
S/O. LATE K. T. THOMAS, I. C. AMPER PARK, C.S. ROAD,
KOCHI - 11.
- 11 DR. JOSE THOMAS,
S/O. LATE K. T. THOMAS, BRIGHT HOUSE, KOZHIKODE - 673
014.(SUPPLEMENTAL RESPONDENTS 3 TO 5 IMPEADED AS PER
ORDER IN IA-3/2008 DATED 15.03.2008 AND AMENDED AS PER
ORDER IN IA-4/2008 DATED 15.03.2008.)

BY ADVS.

SHRI.NAGARAJ NARAYANAN, SPL. G.P. (FOREST)
SMT.NISHA JOHN

THIS MFA (FOREST) HAVING COME UP FOR HEARING ON 11.02.2026,
ALONG WITH MFA (FOREST).31/2018 AND CONNECTED CASES, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

&

THE HONOURABLE MR. JUSTICE P. KRISHNA KUMAR

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2026 / 22ND MAGHA, 1947

MFA (FOREST) NO. 107 OF 2019

AGAINST THE ORDER DATED 22.03.2019 IN OA NO.79 OF 1994 OF

FOREST TRIBUNAL, KOZHIKODE

NAME OF THE APPELLANTS:

- 1 CATHERINE THOMAS,
1-C AMBER PARK, CANNON SHED ROAD, KOCHI-682011.
- 2 JAY THOMAS,
1-C AMBER PARK, CANNON SHED ROAD, KOCHI-682011.
- 3 JOE THOMAS,
1-C AMBER PARK, CANNON SHED ROAD, KOCHI-682011.

BY ADV SMT. NISHA JOHN

NAME OR NAMES WITH FULL ADDRESS/ADDRESSES OF THE PERSON/ PERSONS
WHO SHALL BE IMPEADED OR BROUGHT ON RECORD AS
RESPONDENT/RESPONDENTS/RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT, TRIVANDRUM-695001.
- 2 THE CUSTODIAN OF VESTED FORESTS,
OLAVAKKODE, PALAKKAD.



MFA (FOREST) NO. 107 OF 2019

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- 3 MRS.UMAYAL CHETTYAPPAN,
W/O.LATE M.CHETTYAPPAN, 9 ADAYAR CLUB GATE ROAD,
CHENNAI-600028.
- 4 MRS.AZHAGU ANNAMALAI,
NO.5,1ST CROSS STREET,INDIRA NAGAR, MADRAS-600020.
- 5 MRS.MEYYAMMAI VENKATACHALAM,
NO.13/1,RANJITH ROAD,KOTTUPURAN, MADRAS-600085.
- 6 MRS.SIVAGAMI MUTHUKARUPPAN,
B BLOCK,005,RAHEJA CENTRE, NO.1073,1074,AVINASHI
ROAD,COIMBATORE-641018.
- 7 MISS.C.JAYALAKSHMI,
9 ADAYAR CLUB GATE ROAD,CHENNAI-600028.
- 8 MR.C.SENDIL MEIYAPPAN,
9 ADAYAR CLUB GATE ROAD,CHENNAI-600028.

[RESPONDENTS 3 TO 8 ARE REPRESENTED THROUGH THEIR POWER OF ATTORNEY HOLDER KURIEN E KALATHIL, C-10, JAWAHAR NAGAR, KOWDIAR, THIRUVANANTHAPURAM]

- 9 KURIEN E KALATHIL
TC 15/1004, OPP. TRIDA, VAZHUTHACAUD, TRIVANDRUM-10.

BY ADVS.
SHRI.NAGARAJ NARAYANAN, SPL. G.P. (FOREST)
SHRI.ZAKEER HUSSAIN
SMT.K.A.SANJEETHA

THIS MFA (FOREST) HAVING COME UP FOR HEARING ON 11.02.2026, ALONG WITH MFA (FOREST).31/2018 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



2026:KER:12296

C. R.

SATHISH NINAN &
P. KRISHNA KUMAR, JJ.

= = = = =
M.F.A (Forest) Nos. 31/2018, 107, 75 of 2019,
&
42/2021
= = = = =

Dated this the 11th day of February, 2026

J U D G M E N T

Sathish Ninan, J.

These appeals arise from orders in proceedings under the Kerala Private Forests (Vesting and Assignment) Act, 1971 (hereinafter referred to as “the Vesting Act”), and Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (hereinafter referred to as “the EFL Act”).

2. The Original Application filed under the Vesting Act was allowed in part, in respect of a portion of the scheduled property of 263.27 acres. Challenging the respective parts of the order which are against the applicants and the State, they are in appeal in MFA Nos.75/2019 and 42/2021, respectively. Additional respondents 3 to 5 in the OA, who claimed rival title against the applicants, have preferred MFA 107/2019.



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3. The Original Application under the EFL Act relate to 873 acres (approximately) including the 263 acres notified under the Vesting Act. The original application was allowed but, subject to the orders in the OA under the Vesting Act. Challenging the same the State is in appeal in MFA 31/2018.

4. The total extent of 873 acres originally belonged to one Ponmudi Holdings Ltd. The Company had obtained assignment from the Travancore Government under document No.1899 of 1116 ME. The assignment was for cultivation of cardamon, rubber, teak etc. Under Ext.A2 document dated 18.08.1972, they conveyed the property in favour of one K.T. Thomas. On 23.11.1987, K.T. Thomas entered into an agreement for sale with one Chettiyappan. Subsequently, under Exts.A10 to A46 sale deeds dated 18.10.1991, K.T.Thomas conveyed the property to Chettiyappan. In the year 1993, K.T. Thomas purported to cancel the sale deeds. There were litigations between the parties. Suffice to notice that the sale deeds in favour of Chettiyappan remain upheld.

5. In the year 1994, the legal heirs of Chettiyappan entered into an agreement for sale with the 7th applicant in the OA. On 04.03.1980 the State had notified 263 acres from out of the 873 acres as vested forest. On 12.07.1994, original application was filed by the legal heirs of Chettiyappan, through the 7th



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applicant as their power of attorney holder, challenging the notification. Pending the original application, on 29.06.1995, the 7th applicant got conveyance of the property from applicants 1 to 6.

6. In the Original Application it was contended that the property is not a vested forest but, a plantation containing cardamon, rubber etc.

7. The State contended that the Original Application is barred by limitation. The claim that the disputed property is a plantation, was denied.

8. The legal heirs of late K.T.Thomas got themselves impleaded as additional respondents 3 to 5. They claimed that the conveyances in favour of Chettiyappan under Exts.A10 to A46 were, excluding the alleged vested forest. They claimed that title over the property notified as vested forest(the application scheduled property) vests with them. It was also contended that the property is not a vested forest.

9. The Tribunal held that a portion of the property, as identified in Exts.C1 and C2 Commissioner's Report and sketch, is not vested forest.

10. With regard to the original application under the EFL Act, the notification is in relation to the entire extent of 873



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acres, including the 263 acres notified under the Vesting Act. The Original Application was before the EFL Tribunal and was tried and disposed of first. The Tribunal while holding the entire extent to be not an EFL land held that it will be subject to the proceedings under the Vesting Act regarding the extent covered by the notification under the Vesting Act.

11. We have heard Sri.Nagaraj Narayanan, the learned Special Government Pleader (Forest), Sri.B.Krishnan, Smt.K.A. Sanjeetha, Smt.Nisha John, learned counsel for the respective parties.

12. Firstly, we proceed to consider the OA under the Vesting Act. It relates to approximately 263 acre out of the larger extent of 873 approximately acres. The primary contention of the State is that, the Original Application is barred by limitation. The notification under the Vesting Act is dated 04.03.1980. The Original Application was filed on 12.07.1994. Rule 3(1) of the Kerala (Private Forests) Tribunal Rules, 1972, stipulates a period of sixty days from 06.08.1981 or from the date of publication of the notification under sub-rule 2 of Rule 2(A) of the Kerala Private Forest (Vesting and Assignment) Rules 1974, which ever is later, to raise a challenge. The Rule reads thus: -



-: 5 :-

“Rule - 3. Application to the Tribunal.

(1) An application under Section 8 shall in Form 'A' and shall be presented to the Tribunal with such number of additional copies of the application, as are necessary, to be served on the respondents within sixty days from 6th August 1981 or from the date of publication of the notification under sub-rule (2) of Rule 2-A of the Kerala Private Forests (Vesting and Assignment) Rules, 1974 in respect of the land to which the dispute relates which ever is later.

The question is, whether the Original Application has been filed within sixty days from the date of publication of the notification under sub-rule 2 of Rule 2(A). It would be appropriate to extract Rule 2(A) of the Vesting Rules:-

2A. Demarcation of boundaries:—(1) Demarcation of private forests in pursuance of S. 6 of the Act shall be effected by erecting cairns along the boundaries.

(2) A notification specifying the details of the private forest, the boundaries of which have been demarcated such a survey and sub-division number if available and local name and describing its boundaries shall immediately be published simultaneously in the Village Office, Panchayat Office, Office of the Forest Tribunal, Range Office, Office of the Divisional Forest Office and the office of the Custodian.

(3) The fact that a notification has been published under sub-rule (2) shall be published in two or more newspapers having circulation in the locality.”

Rule 2A(2) mandates publication of the notification with the details as mentioned therein, in the Village Office, Panchayat Office, Office of the Forest Tribunal, Range Office, Office of the Divisional Forest Office and the Office of the Custodian. Under Rule 3 of the Tribunal Rules referred before, the period of



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limitation commences to run from the date of such publication in the offices above. In *Thanka v. State of Kerala [2001 (3) KLT 801]*, it was held that whether the publication of notification was effected as mandated under Rule 2A(2) is of significance since it determines the time limit for approaching the Tribunal. In *Thanka's* case the court referred to the judgment in MFA Nos.249 and 383 of 1988 wherein it was held :-

“The question will arise as to whether the notification stated to have been published on 14.12.1981 satisfies the requirements of R.2A(A) and (3) has to be determined by the Tribunal .”

In the case at hand the notification is dated 04.03.1980; the OA is filed on 12.07.1994. The applicants bank upon *Thanka's* case and contend that there is no material to find compliance with sub-rule 2 of Rule 2(A) of the vesting Rules and hence the bar of limitation is not attracted.

13. Exts.B12 and B13 are the notifications published in Kerala Kaumudi daily and Malayala Manorama daily dated 20.05.1980 and 18.05.1980 respectively. Those publications are to the effect that, notification has been published in the concerned offices in terms of Rule 2 of Rule 2(A) of the Vesting Rule. The publication reads thus,



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“റ്റി. എ-6070/79

1980 ഏപ്രിൽ 30

കേരള വനം വകുപ്പ് തിരുവനന്തപുരം ഡിവിഷൻ

പരസ്യം

പൊതുജനങ്ങളുടെ അറിവിലേക്ക് ഇതിനാൽ പരസ്യം ചെയ്യുന്നതെന്നാൽ, തിരുവനന്തപുരം ജില്ലയിൽ പെരിങ്ങമല വില്ലേജിൽ പൊൻമുടി എസ്റ്റേറ്റിൽ 106 5419 ഹെക്ടർ സ്ഥലവും ടി വില്ലേജിൽ ഇൻവെർക്കാൾഡ് എസ്റ്റേറ്റിൽ 43.9145 ഹെക്ടർ സ്ഥലവും ടി വില്ലേജിൽ ബ്രൈമൂർ എസ്റ്റേറ്റിൽ 35.5065 ഹെക്ടർ സ്ഥലത്തും കുളത്തുപ്പുഴ വില്ലേജിൽ റാക്കുവുഡ് എസ്റ്റേറ്റിൽ 44.0702 ഹെക്ടർ സ്ഥലവും വിതുര വില്ലേജിൽ ബോണക്കാട് എസ്റ്റേറ്റിൽ 92.0459 ഹെക്ടർ സ്ഥലവും പെരിങ്ങമല വില്ലേജിൽ മർക്കിസ്സൻ എസ്റ്റേറ്റിൽ 23.7371 ഹെക്ടർ സ്ഥലവും 1971-ലെ കേരള വനനികുതിപത്രമാക്കലും പതിച്ചുകൊടുക്കലും നിയമമനുസരിച്ച് നിക്ഷിപ്ത വനമാണെന്ന് കാണിച്ച് 1974-ലെ കേരള വനനികുതിപത്ര വന ഉത്തരവിൽ സബ് റൂൾ (2) എ അനുസരിച്ചുള്ള പരസ്യം, പെരിങ്ങമല, കുളത്തുപ്പുഴ, വിതുര എന്നീ പഞ്ചായത്തു ഓഫീസുകളിലും പെരിങ്ങമല, കുളത്തുപ്പുഴ, വിതുര എന്നീ വില്ലേജ് ഓഫീസുകളിലും തിരുവനന്തപുരം ഡിവിഷണൽ ഫോറസ്റ്റ് ഓഫീസ്, പരുത്തിപ്പള്ളി, പാലോട്, കുളത്തുപ്പുഴ എന്നീ റെയ്ഞ്ചാഫീസുകൾ നിക്ഷിപ്ത വനങ്ങളുടെ കസ്റ്റോഡിയന്റെ ഓഫീസ്, വന ട്രൈബ്യൂണൽ ഓഫീസ് ഇവരുടെയും നോട്ടീസ് ബോർഡുകളിൽ പരസ്യം ചെയ്തിട്ടുണ്ട്.

തിരുവനന്തപുരം

പി.എസ്. എൻ. റാവുത്തർ (ഒപ്പ്)

PRD-515/80

ഡിവിഷണൽ ഫോറസ്റ്റോഫീസർ, തിരുവനന്തപുരം”

Exts.B12 and B13 publications are in compliance with the mandate under sub-rule 3 of Rule 2(A) of the Vesting Rules. Sub-Rule 3 requires that, the factum of publication of notification under sub-rule 2 shall be published in two or more newspapers having circulation in the locality. The publications acknowledge the publication of notifications in the various offices as mandated under sub-rule 2 of Rule 2(A) of the Vesting Rules. The publication under Rule 3 is effected after the publication under sub-rule 2 of Rule 2(A), vouching that, the notification as mandated under sub-rule 2 of Rule 2(A) has been effected.



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14. The State has, at paragraph 3 of their objections, while raising the plea of limitation, pleaded about the details of the publication under Rule 2(A)(2). The Original Application does not contain any averment regarding non-compliance of Rule 2(A)(2). The Original Application was earlier remanded specifically leaving open the question of limitation. Though the OA was amended thereafter, no plea to the said effect was incorporated. According to the applicants there is no evidence adduced by the State to show the publication of notification in various offices as mandated under Rule 2(A)(2). RW1 is the Forest Range Officer. He deposed that the notification was published in the offices and news papers, as required under the Rules. The mere fact that in cross examination he deposed that he does not have direct knowledge about the publications since he assumed the office only on 03.04.1998 is not sufficient to find that there has been no publication of notification. There is no suggestion to the witness that publication was not effected. The State has produced copy of the notification as Ext.B1 and also Exts.B12 and B13, the publications in terms of Rule 2(A)(3) stating that Rule 2(A)(2) has been complied. The publication under Rule 2(A)(3) presupposes that publication under R2(A)(2) have been effected. This is sufficient enough to find compliance with the publication under



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Rule 2(A)(2). There is no material to find otherwise. Here, Section 114 of the Indian Evidence Act, 1872, which corresponds to Section 119(1) of the Bharatiya Sakshya Adhiniyam, 2023, is of significance. The same reads thus :-

“114. Court may presume existence of certain facts.— The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.”

What sub-rule (3) of Rule 2A stipulates is a publication that a notification in terms of Rule 2A(2) has been published in the concerned offices. In the facts of the present case, the publication under sub-rule 3 leads to a presumption that the notification was published in the offices as required under Rule 2A(2).

15. Incidentally, it is also to be noticed that, additional respondents 3 to 5 in their counter have raised a contention with regard to the publication under Rule 2(A)(2). Their objection is not that there has been no publication at the offices prescribed under Rule 2(A)(2) but, that such publication was in respect of a different village and not the village where the property is situated. In fact, such contention fortifies that there has been publication of notification in terms of Rule 2(A)(2). Their



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objection with regard to the name of the village has no force since, subsequent to the notification, there has been delimitation and change in the villages.

16. The appellant raised a contention that the Tribunal having answered the issue of limitation in favour of the applicants, under Section 99 of the Code of Civil Procedure, limitation being not one relating to jurisdiction, the order impugned is not liable to be interfered with in appeal. Section 99 of the Code reads thus:

“No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.— No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal on account of any misjoinder or non-joinder of parties or causes of action or any error, defect or irregularity in any proceedings in the suit, not affecting the merits of the case or the jurisdiction of the court:

Provided that nothing in this section shall apply to non-joinder of a necessary party.”

What the section provides is that, a decree shall not be interfered with in appeal for the reason of, (i) mis-joinder or non-joinder of parties or causes of action, or (ii) error, defect or irregularity, unless it affects the merits of the case or the jurisdiction of the Court. The issue of limitation does not fall within either (i) or (ii). The argument of the appellant is only to fail.



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17. The original application having been filed fourteen years after the date of notification under Rule 2(A)(2) of the Vesting Rules, is hopelessly barred by limitation. The finding of the Tribunal to the contrary is liable to be set aside and we do so.

18. Additional respondents 3 to 5 claimed that the property notified under the vesting notification has not been conveyed by the predecessor K.T.Thomas to Chettiyappan. The applicants' title is disputed. Exts.A10 to A46 are the sale deeds. While in the body of the documents, it is recited that the lands notified in the Vesting Act are not included, in the scheduled description, the entire property is included. So also there is a plan attached to each of the sale deeds. The extent shown in the plans added up makes up the entire extent. There is no recital in the sale deed that any portion out of the total extent of property is retained by the vendor. It is possible to understand that, according to the vendor, there is no vested forest in the total extent of property that has been conveyed. We find the contention to be devoid of merit. At any rate, respondents 3 to 5 have not filed any original application challenging the notification. Any application at their behest would also be hopelessly barred by limitation. Therefore, their claim and objection has no



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substance.

19. On the above discussions, we find that the Original Application challenging the notification under the Vesting Act is liable to be dismissed.

20. Now coming to the Original Application under the EFL Act, the notification is in relation to the entire extent of 873 acres, including the 263 acres under the Vesting Act. The challenge against the Vesting notification having been found to fail, what is relevant is only the consideration with regard to the remaining 610 acres (approximately). Exts.C1 to C12 are the Commissioners Reports. Ext.A60 is the report of the Committee constituted under Rule 18 of the Vesting Rules. Clauses 4.2, 4.3 and 4.4 are of significance. They read thus: -

“4.2 As per the application submitted by the Estate owner the Estate area is 872.91 Acres (353.40 Ha). As per the notification published in the Gazette on 2.1.01, the land notified under section 3(1) of the Ordinance is as follows.

<i>Survey No.</i>	<i>Extent</i>
<i>3992</i>	<i>213.5840 Ha</i>
<i>3993</i>	<i>61.8620 Ha</i>
<i>3995</i>	<i>77.8190 Ha</i>
<i>Total</i>	<i>353.2650 Ha</i>

4.3 On the basis of the inspection conducted by the Committee, we are of the opinion that 106.5419 Ha of land lying in ten bits as explained in Paragraph 3.3 to 3.13 will qualify to be notified under section 3(1) of the Act. The details are as follows.



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Sl. No	District	Taluk	Forest Division	Range	Locality	Village	Sy.No./with Sub Division	Extent (ha)
1	Trivandrum	Nedumangad	Trivandrum	Kulath upuzha	Ponmudi Section	Thennur	3992 pt	0.2
2				Palode	Kallar Section	“	3995 pt	32.58
3				Kulath upuzha and Palode	Ponmudi and Kallar Section	“	3992pt and 3995 pt	56.6
4				Kulath upuzha	Ponmudi Section	“	3993 pt	0.7735
5				Kulath upuzha	Ponmudi Section	“	3992 pt	2.8846
6				Kulath upuzha	Ponmudi Section	“	3992 pt	10.0943
7				Kulath upuzha	Ponmudi Section	“	3992 pt	0.1175
8				Kulath upuzha	Ponmudi Section	“	3992 pt	1.3105
9				Palode	Kallar Section	“	3995 pt	1.1410
10				Palode	Kallar Section	“	3995 pt	0.8405
Total								106.5419

4.4 The remaining land is principally under cultivation of crop of long duration such as Tea and Rubber with agricultural crops like Cardamom, Arecanut, Pepper etc. There are a number of Residential buildings, Factory buildings and office buildings in the estate portion. Around 350 Nos. of labours are engaged in the Estate activities. Therefore the remaining land is not consistent with the provisions under section 3(1) of the Act. A map of the estate showing the proposed EFL land, estate portions and buildings is enclosed for ready reference.

Under the above circumstances the Committee expresses its opinion that the area notified on 02/01/2001 as per notification No. C4-21437/2000 dated: 20/10/2000 Sl. No. 195 to 197 is not fully consistent with the provisions of section 3(1) of the Art and therefore as pointed out earlier, in para No. 4.3 an extent of 106.5419 Ha of land as detailed above will qualify under section 3(1) of the Act. “



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The above is unambiguous that, excluding the vested area the entire remaining property of approximately 609 acres is a plantation.

21. In the Original Application, expert Commissioners were deputed to inspect the land. The experts were those in the area of cardamom, tea and also civil engineer to inspect the buildings situated in the property. Their reports corroborate Ext.A60 report of the Committee. On a reading of Ext.A60 report and the Commissioner's Reports, we find that there could not be any dispute that the property is a plantation. It is not an EFL land. The EFL notification, in so far as it relates to the area of land excluding the land notified under the Vesting Act is liable to be set aside. The OA under the EFL Act is liable to be allowed, but only in respect of the remaining 609 acres.

22. With regard to the identification of the property, we notice that the entire extent of property including the property notified under the Vesting Act is identified in Ext.C9(e) plan, which is mistakenly referred to in the impugned judgment as Ext.C9(c) plan. The land notified under the Vesting Act is identified in Ext.A86 series plans. Therefore, there is no scope for any dispute with regard to the identity of the remaining



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extent of land which is not held to be EFL.

In the result, MFA Nos.42 of 2021 is allowed. The order impugned therein is set aside and OA 79 of 1994 will stand dismissed. MFA Nos. 75 of 2019 and 107 of 2019 will stand dismissed. MFA 31/2018 is allowed in part. Out of the total extent covered under the EFL notification, the area excluding the extent covered under the Vesting notification is declared to be not EFL land. The EFL notification will stand set aside to the above extent.

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Sd/-

**SATHISH NINAN
JUDGE**

Sd/-

**P. KRISHNA KUMAR
JUDGE**

kns/-

//True Copy//

P.S. To Judge



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APPENDIX OF MFA (FOREST) NO. 75 OF 2019

PETITIONER ANNEXURES

Annexure A1 CERTIFIED COPY OF THE JUDGMENT IN RFA
NO.490/2008 DATED 02/07/2025 OF THIS HON'BLE
COURT.

ANNEXURE A CERTIFIED COPY OF THE ORDER IN O.A. 79/1994
OF THE FOREST TRIBUNAL, KOZHIKODE DATED
22.3.2019.



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APPENDIX OF MFA (FOREST) NO. 107 OF 2019

RESPONDENT ANNEXURES

Annexure R9(a) **Certified copy of the judgment in OS 79/2002
dated 22.12.2005 of the Sub Judge Nedumangad**
