

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN
&
THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

Monday, the 23rd day of February 2026 / 4th Phalguna, 1947

IA.NO.10/2024 IN WP(C) NO. 1801 OF 2010(S)

APPLICANTS/RESPONDENTS 1 TO 5 & ADDL. RESPONDENTS 27 & 30 & 42 IN WP(C):

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM - 695 001.
3. THE SECRETARY TO GOVERNMENT, DEPARTMENT OF FORESTS & WILD LIFE, THIRUVANANTHAPURAM - 695 001.
4. THE DISTRICT COLLECTOR, IDUKKI - 685 603.
5. THE DIVISIONAL FOREST OFFICER MUNNAR - 685 612.
6. THE STATE DISASTER MANAGEMENT AUTHORITY, REPRESENTED BY ITS MEMBER SECRETARY, THIRUVANANTHAPURAM, KERALA- 695 033.
7. THE DISTRICT POLICE CHIEF, IDUKKI - 685 603.
8. THE DIRECTOR, DIRECTORATE OF SURVEY, THIRUVANANTHAPURAM - 695 014.

RESPONDENTS/PETITIONER & ADDL. RESPONDENTS 6 TO 26, 28, 29 & 31 TO 41 & 43 TO 46 IN WP(C):

1. ONE EARTH ONE LIFE (REG. NO. S.246/1988), THRISSUR, REPRESENTED BY MR.TONY THOMAS, AGED 50 YEARS, S/O. THOMAS, KIZHAKKEKARA HOUSE, IRUMBAKACHOLA, KANJIRAPUZHA.P.O., PALAKKAD DIST.
2. VINOD.P.K, S/O P.C.KOCHUKUNJU, PUTHUPARAPADIKAL, PALLIVASAL P.O., SECOND-MILE, IDUKKI DISTRICT - 685 565.
3. M/S.KANNAN DEVAN HILLS PLANTATIONS CO.PVT.LTD., KDHP HOUSE, MUNNAR-685612, REPRESENTED BY ITS EXECUTIVE DIRECTOR MR.P.M.SRIKRISHNAN.
4. M/S.TATA TEA LIMITED, SPECIAL PROJECTS OFFICE, GENERAL HOSPITAL COMPLEX, MUNNAR-685612, REPRESENTED BY ITS SENIOR MANAGER-IR (LEGAL AND ADMINISTRATION) MR.PRATAP RAMDAS.
5. S.RAJENDRAN, S/O SHANMUGHA VELU, IKKA BHAVAN, IKKA NAGAR, MUNNAR - 685 612.
6. MAHIN K.U, S/O UMMER, KUTTAMKULAM, ADIMALY - 685 561.
7. MANJU JINCE, PRESIDENT, BAISON VALLEY PANCHAYAT, D/O MATHEW, VARANAKUZHIYIL (H), BAISON VALLEY, IDUKKI.
8. ILLIAS, AGED 57, S/O.SAIDKUNJU, CHOORAVELIL HOUSE, VELLATHOOVAL P.O., IDUKKI DISTRICT - 685 563.
9. MUNNAR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
10. VELLATHOOVAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
11. PALLIVASAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
12. DEVIKULAM GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
13. CHINNAKKANAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
14. BISON VALLEY GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.

15. SANTHANPARA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
16. UDUMBANCHOLA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
17. MANKULAM GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
18. MARAYOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY
19. IDAMALAKUDI GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY
20. KANTHALLOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY
21. VATTAVADA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY
22. NATIONAL ENVIRONMENTAL ENGINEERING RESEARCH INSTITUTE (CSIR-NEERI) NEHRU MARG, NAGPUR-440020.
23. V.MOHANKUMAR, SECRETARY PUBLIC INTEREST PROTECTION ASSOCIATION, MUNNAR, PIN - 685 612.
24. KERALA KARSHAKA SANGHAM, IDUKKI DISTRICT COMMITTEE, IDUKKI, REPRESENTED BY ITS SECRETARY, ROMEO SEBASTIAN, S/O. SEBASTIAN, RESIDING AT KOLLAKOMBIL HOUSE, KALVARI MOUNT P.O., IDUKKI - 685 515.
25. REJI JAICOB, SON OF JAICOB, PRESIDENT, KERALA KARSHAKA UNION (M), STATE COMMITTEE OFFICE, NEAR FIRE STATION, PALACE ROAD, KOTTAYAM - 686 001.
26. ATHIJEEVANA PORATTA VEDHI, IDUKKI (REG NO:IDK/TC/195/2018), REPRESENTED BY CHAIRMAN, C.S RAZAK, S/O LATE SAITH KUNJ, CHOORAVELIL HOUSE, VELLATHOOVAL WEST, VELLATHOOVAL P.O., IDUKKI DISTRICT, PIN - 685 563
27. DEAN KURIAKOSE, S/O.A.M.KURIAKOSE, ANANICKAL HOUSE, PAINGOTTOOR P.O., KULAPPURAM, MUVATTUPUZHA, ERNAKULAM DISTRICT, PIN 686 671
28. SAJEEV SEBASTIAN, S/O SEBASTIAN, KONDATTUPARAMBIL HOUSE, SHANTHANPARA, PUTHADY P.O, RAJAPPARA, IDUKKI DISTRICT-685619
29. THE DISTRICT COMMITTEE OF COMMUNIST PARTY OF INDIA (MARXIST), COM. M JINADEVAN MEMORIAL BUILDING, CHERUTHONI, IDUKKI COLONY P.O., IDUKKI DISTRICT, PIN-685602, REPRESENTED BY ITS SECRETARY, C.V.VARGHESE
30. GIGGY DANI, WIFE OF DANI THOMAS, 10-C, LORDS SKYLINE IMPERIAL GARDENS, PALARIVATTAM, KALOOR. P.O., DIST. ERNAKULAM - 682017
31. THE UNION OF INDIA, REPRESENTED BY ITS SECRETARY, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN BHAWAN, CGO COMPLEX LODHI ROAD, NEW DELHI-110 003
32. THE ELECTION COMMISSION OF INDIA, REPRESENTED BY THE PRINCIPAL SECRETARY, NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI - 110 001.
33. JOSEPH VARKEY, S/O. VARKEY, CHITHRAPURAM. P.O., ANCHAL, DEVIKULAM TALUK, IDUKKI DISTRICT, PIN - 685 565.
34. LILLY GEORGE, W/O. JOSEPH VARKEY, CHITHRAPURAM. P.O., ANCHAL, DEVIKULAM TALUK, IDUKKI DISTRICT, PIN - 685 565.
35. HIGH RANGE TOTAM TOZHILALI UNION, REG. NO. 06-7 OF 1996, SANTHANPARA, IDUKKI, REPRESENTED BY ITS PRESIDENT, V.N MOHANAN, S/O NARAYANAN, VILAYALIL(H), VATTAPPARA P.O, IDUKKI DISTRICT-685619
36. THE PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, COCHIN - 11, EDAPPALLY, ERNAKULAM.
37. CENTRAL BUREAU OF INVESTIGATION, ACB, KATHRIKADAVU, COCHIN - 682 017.

38. UNION GOVERNMENT OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS, DEPARTMENT OF PERSONNEL AND TRAINING, NORTH BLOCK, NEW DELHI – 110 001.

Application praying that in the circumstances stated in the affidavit filed therewith the High Court be pleased to modify the interim order dated 10/01/2024 and permit the applicants to issue patta to the persons who are occupying before 01/08/1971, in the interest of justice.

This Application coming again on for orders upon perusing the application and the affidavit filed in support thereof, this Court's orders dated 10/01/2024 in WP(C) & 08/12/2025 in IA 10/2024 and upon hearing the arguments of SRI.K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL, SRI. K.P. JAYACHANDRAN, ADDL. ADVOCATE GENERAL, SRI.M.H. HANIL KUMAR & SRI.S. RENJITH, SPECIAL GOVERNMENT PLEADERS, SRI.JAFFER KHAN. Y., SENIOR GOVERNMENT PLEADER for the Applicants in IA/R1 to R5, Addl.R27, Addl.R30 & Addl.R42 in WP(C), SMT.DAISY A.PHILIPPOSE, Advocate for R1 in IA/petitioner in WP(C), SRI.K.RAMAKUMAR (Senior Advocate) along with SMT.SMITHA GEORGE, Advocates for R2 in IA/R6 in WP(C), SRI.JOSEPH KODIANTHARA (Senior Advocate) along with M/S. MATHEWS K.UTHUPPACHAN, BINU MATHEW, TERRY V.JAMES & B.J. JOHN PRAKASH, Advocates for R3 & R4 in IA/R7 & R8 in WP(C), SRI.S.SREEKUMAR, SENIOR ADVOCATE for R5 in IA/R9 in WP(C), SRI.MATHEW A.KUZHALLANADAN, Advocate for R6 in IA/R10 in WP(C), M/S.MATHEW A.KUZHALLANADAN, V. SHYAMOHAN & ANITHA MATHAI MUTHIRENTHY, Advocates for R7 in IA/R11 in WP(C), SRI.G. SREEKUMAR (CHELUR), Advocate for R8 in IA/R12 in WP(C), STANDING COUNSELS for R9, R10, R12 & R16 in IA/R13, R14, R16 & R20 in WP(C), SRI.JOICE GEORGE, STANDING COUNSEL for R11, R15 & R17 in IA/R15, R19 & R21 in WP(C), SRI.ARUN THOMAS, Advocate for R13 & R21 in IA/R17 & R25 in WP(C), M/S. N.K.SHYJU, GIREESH PANKAJAKSHAN, ANANYA M. & VISHNU MOHAN, Advocates for R14 in IA/R18 in WP(C), M/S. A.S.DILEEP, P.BINOD, K.Y.SUDHEENDRAN, SUSEELA DILEEP, SUDEEP ARAVIND PANICKER & HARITHA HARINATH, Advocates for R18 in IA/R22 in WP(C), DEPUTY SOLICITOR GENERAL OF INDIA & SRI.C.DINESH, CENTRAL GOVERNMENT COUNSEL for R22, R31 & R38 in IA/R26, R37 & Addl.R45 in WP(C), SRI.BINOY VASUDEVAN, Advocate for R23 in IA/Addl.R28 in WP(C), SRI.D.KISHORE, Advocate for R24 in IA/Addl.29 in WP(C), M/S. AUGUSTINE JOSEPH, TONY AUGUSTINE & AISWARYA E J VETTIKOMPIL, Advocates for R25 in IA/Addl.R31 in WP(C), M/S.PEEYUS A.KOTTAM & R.G.RAGESH CHAND, Advocates for R26 in IA/ADDL.R32 in WP(C), M/S.ARUN THOMAS & SHINTO MATHEW ABRAHAM, Advocates for R27 in IA/ADDL.R33 in WP(C), M/S.ASWATHY KRISHNAN & A.L.NAVANEETH KRISHNAN, Advocates for R28 in IA/Addl.R34 in WP(C), SRI.S.SREEKUMAR, SENIOR ADVOCATE a/w SRI.LIJI J.VADAKKEDOM, Advocates for R29 in IA/Addl.R35 in WP(C), M/S. K.REGHU KOTTAPPURAM, MAHESH R (KOTTAPPURAM) & MURUKESH REGHU, Advocates for R30 in IA/Addl.R36 in WP(C), SRI.DEEPU LAL MOHAN, STANDING COUNSEL for R32 in IA/Addl.R38 in WP(C), M/S. M.S.RADHAKRISHNAN NAIR & ELIZEBATH GEORGE, Advocates for R33 & R34 in IA/Addl.R39 & Addl.R40 in WP(C), M/S. K.N.ABHILASH & SUNIL NAIR

PALAKKAT, Advocates for R35 in IA/Addl.R41 in WP(C), SRI.BIDAN CHANDRAN B.G, STANDING COUNSEL for R36 in IA/Addl.R43 in WP(C), SRI. K.P SATHEESAN (Senior) along with SRI.SREELAL WARRIAR, STANDING COUNSEL for R37 in IA/Addl.R44 in WP(C) and of SRI.HARISH VASUDEVAN, AMICUS CURIAE, the court passed the following:

P.T.O.



W.P.(C)No.1801 of 2010

"C.R"

ANIL K. NARENDRAN & MURALEE KRISHNA S., JJ.**W.P.(C)No.1801 of 2010****Dated this the 23rd day of February, 2026****ORDER****Anil K. Narendran, J.**I.A.No.10 of 2024 in W.P.(C)No.1801 of 2010

Respondents 1 to 5 and additional respondents 27, 30 and 42 in W.P.(C)No.1801 of 2010, namely, the State and the official respondents, have filed this interlocutory application seeking an order to modify the interim order dated 10.01.2024 in this writ petition and to permit the State and the official respondents to issue patta to persons who are occupying the land before 01.08.1971.

2. A voluntary organisation by name 'One Earth One Life', Thrissur, registered under the provisions of the Travancore-Cochin, Literary, Scientific and Charitable Societies Registration Act, 1955, filed W.P.(C)No.1801 of 2010 before this Court, invoking the writ jurisdiction under Article 226 of the Constitution of India, seeking a writ of mandamus commanding respondents 1 to 5 (applicants 1 to 5 herein) to take immediate and effective steps to all the persons who encroached into the Government lands, in accordance with law; a writ of mandamus commanding the 1st

W.P.(C)No.1801 of 2010

respondent State to declare a moratorium on land deals in Devikulam, Udumbanchola and Peerumedu Taluks in Idukki district and pass an order to stay on all constructions sanctioned at Chinnakanal, Pallivasal, Devikulam, Udumbanchola and Peerumedu Taluks in Idukki district, until an inquiry was held into the genuineness of the title deeds; and a writ of mandamus commanding the 1st respondent State to constitute a Special Investigation Team comprising of officers of proven integrity to investigate into the fabrication of title deeds as mentioned in Ext.P1 report dated 01.04.2004 of the Additional Director General of Police (Intelligence), addressed to the 4th respondent District Collector, Idukki, on encroachment of revenue/forest land and issuance of forged pattas in Idukki district.

3. A connected writ petition, i.e., W.P.(C)No.34095 of 2007, is one filed by Paristhithi Samrakshana Samiti, another voluntary organisation registered under the Travancore-Cochin, Literary, Scientific and Charitable Societies Registration Act, seeking a writ of mandamus commanding the 1st respondent State and the 2nd respondent District Collector, Idukki, to evict respondents 3 to 75 and all the persons who encroached into Government lands, as stated in Exts.P1 report submitted by the Additional Chief Secretary to Government, Ext.P2 report dated

W.P.(C)No.1801 of 2010

01.04.2004 of the Additional Director General of Police (Intelligence), Ext.P3 report submitted by the Expert Committee on 01.09.2006 before the 2nd respondent District Collector and Ext.P4 report submitted by the Principal Secretary to Government, Revenue Department, on the encroachment and illegal constructions in Munnar, Chinnakanal, Pallivasal and other areas of Idukki district, in accordance with law; a writ of mandamus commanding the 1st respondent State to cancel all bogus pattas, bogus possession certificates and tax receipts, which are unearthed as per Ext.P3 report; issue a writ of mandamus commanding the 1st respondent State to terminate the service of officers whose names are mentioned in Ext.P1 report and to recover the loss caused to the State from the erring officers; and a writ of mandamus commanding the 1st respondent State to take immediate action based on the recommendation contained in Exts.P3 and P4 reports.

4. In W.P.(C)No.34095 of 2007 and W.P.(C)No.1801 of 2010, a Division Bench of this Court passed an order dated 21.01.2010, after recording the submission made by the learned Additional Advocate General, on behalf of the State of Kerala, that no construction could be carried out in Munnar without No Objection Certificate from the Revenue Department and without

W.P.(C)No.1801 of 2010

permission of the Grama Panchayat. Paragraphs 15 to 21 and also the last paragraph of the order dated 21.01.2010 read thus;

"15. Environmental Laws, Laws relating to Mining and Geology and various other aspects are required and are in place to ensure that Nature is preserved and she is subjected only to such necessary intrusion, for sustaining development. Mining of even ordinary earth, as also laterite, rocks etc. could have been had only with proper permissions through competent officers in accordance with the relevant Rules and Regulations. If large scale excavation of soil, as reported by the Principal Secretary and by the Additional Director General of Intelligence, have happened, obviously, that is in violation of the laws. The concept of the Government collecting royalty and even imposing fine or both, would in no manner substitute the harm, for, it is seldom possible to restore earth to her original situation, even with abundant human effort made with the aid of funds.

16. In the aforesaid circumstances, the Government will place on record, without fail, reports on the entire action taken on the basis of the reports which are Exts.P2 to P4 in W.P.(C)No.34095 of 2007, more particularly, regarding the action taken against the identified officers who were duty bound to discharge duties and responsibilities as noted above and have not done so. It shall be stated as to whether action has been taken against any particular officer. The total number of criminal cases registered and preventive action, if any, taken shall be reported.

17. For the time being, we record the submission of the learned Additional Advocate General on behalf of the

W.P.(C)No.1801 of 2010

State that no construction activity could be carried out in Munnar without No Objection Certificate from the Revenue Department and without permission of the Panchayat.

18. It is hence hereby ordered that the Revenue Officials, Local Self Government Authorities, the Police and Forest Authorities shall ensure that no construction activity takes place in Munnar without No Objection Certificate being issued by the Revenue Department and without permission being given by the Panchayat authorities, except in cases which are governed by Court orders.

19. It is further ordered that the revenue authorities and police officials of Munnar shall forthwith see that there is no mining of any type of sand, earth, rocks, granite, laterite etc. from any part of Munnar for a period of two months until otherwise ordered by this Court.

20. It shall also be ensured that encroachment, if any, in river puramboke are immediately identified and action taken in terms of the appropriate laws for getting back possession of such parcels. It is further ordered that no construction activity would be permitted on the shores of rivers and riverbeds.

21. Having regard to the different provisions of the Panchayat Raj Act, the different laws and also the requirement that the entire Munnar area requires to be immediately looked into by the Revenue Department, the Revenue Department and the Forest Department will place reports as are necessary for further management of the situation by the next date of posting."

W.P.(C)No.1801 of 2010

5. The order dated 21.01.2010 in W.P.(C)No.34095 of 2007 and W.P.(C)No.1801 of 2010 was followed by a series of orders in those writ petitions and also the tagged matters.

6. 'Munnar area' as defined in clause (g) of Section 2 of Munnar Special Tribunal Act, 2010, means all lands comprised in the villages of Chinnakkanal, Kannan Devan Hills, Santhanpara, Vellathooval, Aanavilasam, Pallivasal, Aanaviratty and Bison Valley in Devikulam and Udumbanchola Taluks in Idukki District. Kannan Devan Hills Village later bifurcated to Edamalakkudy Village and Mankulam Village.

7. On 05.06.2023, when W.P.(C)No.34095 of 2007 and W.P.(C)No.1801 of 2010 came up for consideration along with tagged matters including W.P.(C)No.19219 of 2021, the learned Special Government Pleader invited the attention of the Division Bench to the affidavit and report filed by the District Collector, Idukki on 18.03.2020 and submitted that the directions have been strictly complied with. However, the aberrations noted by the District Administration are being looked into. After perusing the records, the Division Bench noticed that the present Public Interest Litigations were taken up not only to remedy the situation in Idukki District but also to prevent further damage and deterioration to the environment. After considering the

W.P.(C)No.1801 of 2010

submissions made at the Bar, the Division Bench directed Registry to post the cases before another Division Bench on 13.06.2023, after taking orders on the administrative side. Paragraph 5 and also the last paragraph of the order dated 05.06.2023 read thus;

"5. Prima facie, we are of the view that the stand of the petitioners warrants, at least from now on, regular monitoring by the Court. Hence, we direct the Registry to take orders on the administrative side for posting the matters before another Division Bench and request to hear the Public Interest Litigations atleast once in a fortnight and expeditiously dispose of one of the oldest of old cases. The illegalities, if any, come to the notice of petitioners as well, they are given the liberty to place the photo/evidence and location merely by way of a memo within one week from today. The District Collector, who is personally present provided today, requested two weeks' time for filing the latest status report along with an affidavit in this behalf. We are of the view that the time sought is on the higher side for the administration is closely monitoring and implementing the directives issued by this Court, and then the report or affidavit can be filed at the earliest. Therefore, we grant one week time from today and direct the Registry to post the cases before a Division Bench on 13.06.2023 after taking orders on the administrative side.

The counsel appearing for parties are given the liberty to provide the writ petition numbers of all the connected cases, and the connected cases are tagged and heard by a Division Bench along with the present batch of cases."

W.P.(C)No.1801 of 2010

8. On 13.06.2023, when W.P.(C)No.34095 of 2007, W.P.(C)No.1801 of 2010 and W.P.(C)No.19219 of 2021 came up for consideration, the Division Bench found that the following local authorities in Idukki District are necessary parties to this proceedings;

Munnar Grama Panchayat, Vellathooval Grama Panchayat, Pallivasal Grama Panchayat, Devikulam Grama Panchayat, Chinnakanal Grama Panchayat, Bison Valley Grama Panchayat, Santhanpara Grama Panchayat, Udumbanchola Grama Panchayat and Mankulam Grama Panchayat.

Before the Division Bench, it was submitted that some of the above local authorities are already parties to the pending proceedings. Accordingly, by the order dated 13.06.2023, the Division Bench ordered that from among the local authorities enlisted above, the local authorities represented by its Secretaries, which are not yet parties to these proceedings, are suo motu impleaded as additional respondents. The Division Bench appointed Senior Advocate Sri.Renjith Tampan and Adv.Harish Vasudevan as Amicus Curiae to assist the Court. By the order dated 13.06.2023 in W.P.(C)No.34095 of 2007, W.P.(C)No.1801 of 2010 and W.P.(C)No.19219 of 2021, the Division Bench directed the local authorities enlisted hereinbefore to defer consideration of any pending applications for building

W.P.(C)No.1801 of 2010

permits beyond three floors, for a period of two weeks. They were also directed to furnish the details of the building permit applications pending consideration.

9. By the order dated 20.06.2023 in W.P.(C)No.34095 of 2007, W.P.(C)No.1801 of 2010 and W.P.(C)No.19219 of 2021, Marayoor, Idamalakudi, Kanthalloor and Vattavada Grama Panchayaths in Idukki District, represented by its Secretaries were suo motu impleaded as respondents in the party array. The Division Bench directed registry to serve notice to all the local authorities mentioned in the orders dated 13.06.2023 and 20.06.2023, by registered post, except the local authorities for which there are Standing Counsel. In respect of the local authorities for which there are Standing Counsel, notice was directed to be served through the Standing Counsel. By the order dated 20.06.2023, it was made clear that the order dated 13.06.2023, deferring considerations of the applications for building permits beyond three floors will continue and that was also made applicable to the local authorities which are impleaded by the order dated 20.06.2023.

10. By the order dated 14.11.2023 in W.P.(C)No.1801 of 2010, the Director of Survey was suo motu impleaded as an additional respondent and the Division Bench passed an order to

W.P.(C)No.1801 of 2010

conduct Digital survey within Idukki District and the survey team was directed to verify the survey records and Thandapper Register in that process. In the said order, it was made clear that high priority shall be accorded to Chinnakanal, Pallivasal and Vagamon, at the initial phase. The order dated 14.11.2023 in W.P.(C)No.1801 of 2010 was followed by a series of orders in that writ petition and also the tagged matters.

11. On 10.01.2024, when W.P.(C)No.1801 of 2010 came up for consideration, the Division Bench passed an interim order directing the District Collector, Idukki or any authority conferred with the power to issue patta, not to issue any patta to any person who have no semblance of interest by way of lease or through such other instruments issued by the competent authority, till further decision is taken in the writ petition. It was made clear that the order dated 10.01.2024 will not operate for issuance of patta in unoccupied land, in accordance with the Rules and that the order is passed in respect of the consideration of applications under the Kerala Land Assignment Rules, 1964, alone. By the order dated 10.01.2024, the Division Bench directed the Chief Secretary to Government to answer upon the validity of the provisions under Rules 5 and 7 of the Kerala Land Assignment Rules, 1964, conferring power to issue patta to the holder of the

W.P.(C)No.1801 of 2010

land, who claims such lands by way of encroachment. Paragraphs 4 to 6 and also the last paragraph of the order of the Division Bench dated 10.01.2024 in W.P.(C)No.1801 of 2010 read thus;

"4. When the Rule was brought in the year 1964, the intention was only to save such encroachments as on 1964. Therefore, beneficiary could be only such encroachers prior to 1964. But strangely, an amendment was brought to Rule 7 of the Kerala Land Assignment Rules, 1964 allowing those encroachers who encroached upon the Government Land before 1971, to apply for assignment of land on registry. Apparently, this provision would indicate that after 1964, those who are encroached upon the Government Land would also be entitled for assignment of land.

5. It is to be noted that from various cases before this Court, those who claimed to be in possession of land without having a semblance of interest have been conferred with patta and those lands were not included in the assignable list. It is to be noted that no land can be assigned to anyone unless it is included in the assignable list prepared under Rule 11 of the Kerala Land Assignment Rules, 1964. The Government cannot assign any land unless it sub serves public interest or public purpose. If the Government makes Rules in such a way to defeat the objectives of the Kerala Land Assignment Act, that cannot stand to the test of law.

6. Anyway, in this matter, we are of the view that notice has to be issued to the State as to the validity of provisions under Rules 5 and 7 of the Kerala Land Assignment Rules, 1964 conferring power to assign patta to the holder of the land who claims such lands by way of encroachment. That means, those who have no traceable title or interest in the

W.P.(C)No.1801 of 2010

land either through a lease or through such other authority conferred upon them, they will have to be treated as encroachers. We, in such circumstances, are of the view that the Chief Secretary to Government will answer upon the validity of the above Rules. We, in the peculiar circumstances, direct the District Collector, Idukki or any authority conferred with power to issue patta, not to issue any patta to any person who have no semblance of interest by way of lease or through such other instrument issued by the competent authority till further decision is taken in this matter. However, this order will not operate for issuance of patta in unoccupied land in accordance with Rules.

We make it clear that this order is passed in respect of the consideration of applications under the Kerala Land Assignment Rules, 1964 alone."

12. Pursuant to the directions contained in the order dated 10.01.2024, the Chief Secretary to Government has sworn to an affidavit dated 15.06.2024 in W.P.(C)No.1801 of 2010. It is thereafter that I.A.No.10 of 2024 was filed by the State and the official respondents seeking an order to modify the interim order dated 10.01.2024 and to permit the State and the official respondents to issue patta to persons who are occupying land before 01.08.1971.

13. On 21.07.2025, the 1st respondent in I.A.No.10 of 2024, who is the petitioner in W.P.(C)No.1801 of 2010, has filed a counter affidavit dated 19.06.2025 in I.A.No.10 of 2024, opposing

W.P.(C)No.1801 of 2010

the reliefs sought for. On 21.07.2025, when this writ petition came up for consideration, along with the tagged matters, the learned Special Government Pleader sought time to get instructions as to the details like the number of applicants, the extent of land involved, etc., regarding issuance of patta in Munnar region, which is referred to in I.A.No.10 of 2024.

14. An affidavit dated 20.08.2025 sworn to by the 4th respondent District Collector, Idukki, is placed on record, wherein it is stated that at present there are 38,227 applications under the Kerala Land Assignment Rules, pending for assignment of occupied land in the entire Idukki district, out of which 4086 applications are in respect of the land in Munnar region. The total extent of land required for the issuance of patta in Munnar region is 907.9563 Hectares (2,243.56 Acres). In paragraph 4 of the affidavit dated 20.08.2025, the 4th respondent has stated that as per the order of the Apex Court dated 24.10.2024 in W.P.(C)No.202 of 1995, it is ordered that until further orders, the State of Kerala shall not allow any fresh patta for cardamom cultivation nor shall the State permit further land from the area notified as Cardamom Hill Reserve (CHR) to be converted for commercial exploitation. Hence, at present, no pattas are being issued in cardamom plantations.

W.P.(C)No.1801 of 2010

15. We heard arguments of the learned Advocate General for the applicants in I.A.No.10 of 2024 and also the learned counsel for the 1st respondent-writ petitioner on the relief sought for in that interlocutory application for modification of the interim order dated 10.01.2024 in W.P.(C)No.1801 of 2010.

16. The learned Advocate General would contend that the amendment made to Rule 7 of the Kerala Land Assignment Rules, 1964, by way of an amendment introduced on 06.08.1971, is not as understood by the Division Bench in the order dated 10.01.2024 in W.P.(C)No.1801 of 2010, and therefore, the said interim order has to be modified, as sought for in I.A.No.10 of 2024. At the very inception of the 1964 Rules, provisions were made to assign land to persons in occupation of Government land, by way of encroachments not objectionable, who are otherwise eligible as per the provisions of the 1960 Act, subject to the restrictions in the 1964 Rules. There is nothing in the 1964 Rules which would indicate that only those who have occupied Government lands till the notification of the 1964 Rules, vide G.O.(P)No.200/Rev. dated 23.03.1964, alone are entitled for assignment. The 1964 Rules, as it stood till the amendments made in the year 1966 and in the year 1967 did not prescribe any cut-off date for assignment of Government land to a person in

W.P.(C)No.1801 of 2010

occupation, by way of encroachment not considered objectionable. Clause (cc) of Rule 2, which was inserted with effect from 31.05.1966, defines 'encroachment not considered objectionable'. Thereafter, vide G.O.(P)No.336/71/RD dated 03.08.1971, the words "such lands shall be assigned to him on registry" in sub-rule (1) of Rule 7 was substituted by the words "such lands, if such occupation is before the 1st day of August, 1971, shall be assigned to him on registry". Therefore, it is by the amendment made in the year 1971 that, for the first time, the Government introduced a cut-off date, i.e., 1st day of August, 1971, for occupation of Government land by way of encroachment not considered objectionable. In view of the said amendment made in the year 1971, only those persons in occupation of Government lands by way of encroachment not considered objectionable prior to 1st day of August, 1971, alone will be considered for giving priority in assignment under Rule 7 of the 1964 Rules.

17. The learned Advocate General would point out that the fixation of cut-off date as the 1st day of July, 1977 in the Land Assignment (Regularisation of Occupation of Forest land prior to 01.01.1977) Special Rules, 1993, made under the Kerala Government Land Assignment Act, 1960, whereby the Government decided to issue patta to those who are occupying

W.P.(C)No.1801 of 2010

forest land prior to 01.01.1977 was upheld by a Full Bench of this Court in **Nature Lovers Movement v. State of Kerala [ILR 2000 (1) Ker 677]** and the decision of the Full Bench was upheld by the Apex Court in **Nature Lovers Movement v. State of Kerala [(2009) 5 SCC 373]**. The learned Advocate General would contend that neither the 1964 Rules originally notified vide G.O.(P)No.200/Rev. dated 23.03.1964 nor the amendment brought in the year 1971 vide G.O.(P)No.336/71/RD dated 03.08.1971 are against the parent Act, i.e., the 1960 Act. The amendment made to the 1964 Rules in the year 1971 was not ultra vires the provisions of the 1960 Act and it is not opposed to fundamental rights guaranteed under the Constitution of India or to the plenary laws. Only if the 1964 Rules violate the above mandates, this Court can interfere and hold that the said Rules is ultra vires, and the law on this issue is well settled by the decision of a Division Bench of this Court in **Pankajaksy and others v. George Mathew and others [1987 (2) KLT 723]**.

18. The learned counsel for the 1st respondent-writ petitioner would point out the undertaking given by the State Government before a Division Bench of this Court in O.P.No.6579 of 1983 that the Government has taken a policy decision to assign lands to the occupants who have occupied forest land before

W.P.(C)No.1801 of 2010

01.01.1977 and all encroachments after the said date are to be evicted. It is true that encroachments have taken place even after the said date. The State Government is firm on the decision and action is underway to evict the encroachments after 01.01.1977. By Ext.P3 judgment dated 05.02.1993, the Division Bench dismissed O.P.No.6579 of 1983 after recording the above undertaking given by the State Government. Thereafter, the Ministry of Environment and Forest, by Ext.P4 letter dated 31.01.1995 granted approval under Section 2 of the Forest Conservation Act, 1980, for diversion of 28,588.159 hectares (70,613 acres) of forest land in Idukki, Pathanamthitta, Thrissur, Ernakulam and Kollam districts for regularisation of pre 01.01.1977 encroachments in Kerala. The learned counsel would submit that, as stated in the counter affidavit dated 19.07.2025 filed in I.A.No.10 of 2024, even after regularisation of pre-01.01.1977 encroachments in forest land as per Ext.P4 letter dated 31.01.1995, the encroachment into Government land is continuing. The Government have distributed 1,06,450 pattayams within the last three years. The said fact is admitted by the Government in the counter affidavit filed in W.P.(C)No.13678 of 2023. This is a never ending process and the valuable Government land is assigned for meagre amounts. Now, as stated in the

W.P.(C)No.1801 of 2010

affidavit dated 20.08.2025 filed by the 4th respondent District Collector, Idukki, 38,227 applications under the Kerala Land Assignment Rules, are pending for assignment in the entire Idukki district, out of which 4086 applications are for issuance of patta in Munnar region and the total extent of land required for issuance of patta in Munnar region is 907.9563 hectares (2243.56 acres).

19. By the order dated 02.04.2024 in W.P.(C)No.1801 of 2010, the Division Bench directed the Registry to place the matter before the Hon'ble the Chief Justice to consider the issuance of necessary directions for placing the matters relating to the proceedings to quash criminal investigation with regard to issuance of patta in Idukki District, along with the main mater, i.e., W.P.(C)No.1801 of 2010. By that order, Registry was directed to list Crl.M.C.No.1007 of 2023 along W.P.(C)No.1801 of 2010. In the said writ petition, which is the leading case pending as a Public Interest Litigation, this Court issued many directions to conduct investigation as to the genuineness of the patta. In the order dated 02.04.2024, the Division Bench noticed that, certain Crl.M.Cs are filed before this Court invoking Section 482 of the Code of Criminal Procedure, 1973, to quash the proceedings initiated against those who have forged documents to create patta in Idukki district, particularly, in Munnar area.

W.P.(C)No.1801 of 2010

20. On 12.06.2024, when W.P.(C)No.1801 of 2010 came up for consideration, the details of the CBCID cases in Idukki district were placed before the Division Bench. In the order dated 12.06.2024, the Division Bench noticed that there are about 42 cases pending in different courts in Idukki district, out of which in about 18 cases the prosecution allegation is in relation to forging of patta to grab Government land. Government officials are also arrayed as accused. However, Section 120B of the Indian Penal Code, 1860, alone has been incorporated. No provisions of the Prevention of Corruption Act, 1988, have been invoked. In paragraph 2 of the order dated 12.06.2024, after extracting the details of those 18 cases, the Division Bench opined that it is not prima facie satisfied with the investigation relating to those cases. The Special State Prosecutor, who appeared before the Division Bench, submitted that a special team can be constituted, if this Court is not satisfied with the final report submitted before the court. By the order dated 12.06.2024, the Division Bench found that a special team, which consists of high rank officials to the team of others including the revenue officials need to be formed to enquire and investigate the nature of involvement of public officials in forging pattas, including any gratification in any form they received.

W.P.(C)No.1801 of 2010

21. After the aforesaid order dated 12.06.2024, a Special Investigation Team was constituted, which was noticed by the Division Bench in its order dated 03.07.2024 in W.P.(C)No.1801 of 2010. The said order dated 03.07.2024 reads thus;

"See our order dated 12.06.2024. In compliance with the order, the Government passed the following order:-

"ORDER

As per the interim order read above, the Hon'ble High Court of Kerala viewed that a special team consists of high rank officials with the team of others including revenue officials need to be formed to enquire and investigate the nature of involvement of public officials in forging the Patta, including any gratification in any form they received.

In compliance with the direction of the Hon'ble High Court, a Special Investigation Team is constituted with the following members as detailed below to enquire and investigate the nature of involvement of public officials in forging the patta to grab Government lands, including any gratification in any form they received.

1. Shri K. Sethu Raman IPS, IGP North Zone – Chairman
2. Shri. H. Dineshan IAS, Director, Social Justice Department (Former District Collector, Idukki)-Member
3. Shri. Pious George, Dy.SP, Narcotic Cell, Idukki – Member

Shri. K. Sethu Raman IPS, IGP North Zone and Shri H.Dineshan IAS, Director, Social Justice Department, are authorised to expand the Special Investigation Team by including the officials from the Police and Revenue Departments, respectively.

(By order of the Governor)
Bishwanath Sinha,
Additional Chief Secretary"

3. In the light of the above order, we also feel that revenue officials should assist the team. Since Shri.H.Dineshan IAS, Director of the Social Justice Department (former District Collector, Idukki) is included as a member, we direct that

W.P.(C)No.1801 of 2010

suitable revenue officials be handpicked to assist the special team.

4. As per the order dated 13.01.2024, Sri.Latheesh Kumar K., Tahsildar, Special Revenue Office, Munnar, has been appointed as a Special Officer. The Special Officer has not been vested with the power to act as a Collector under the Land Conservancy Act.

5. We direct the Principal Secretary (Revenue) to consider vesting the power of the Collector to Sri.Latheesh Kumar K., Tahsildar, Special Revenue Office, Munnar, under the Land Conservancy Act. We permit Adv.Sri.A.A.Shibi to place certain files along with a memo.

Registry shall accept the memo and place the matter before this Court on 05.07.2024."

22. The Kerala Land Assignment Act, 1960, was enacted to regulate the assignment of Government lands and to remove doubts as to the validity of the limitations and restrictions imposed in assignments of land by the Government or under their authority. Clause (1) of Section 2 of the Act reads thus;

"2(1) The following, that is to say:-

(i) all public roads, streets, lanes and paths, the bridges, ditches, dykes and fences on or beside the same;

(ii) the bed of the sea and of harbours and creeks below high water mark, the beds and banks of rivers, streams, irrigation and drainage channels;

(iii) all canals, tanks, lakes, back-waters and water courses;

(iv) all land wherever situated, save in so far as the same are the property of-

(a) jenmis or holders of Inams; or

W.P.(C)No.1801 of 2010

(b) holders of land in any way subject to the payment of land revenue to the Government; or
(c) any other registered holder of land in proprietary right; or
(d) any person holding land under grant from the Government otherwise than by way of lease or licence; or
(e) any person claiming through or holding under any of the persons referred to in clause (a), (b), (c) or (d),
are hereby declared to be Government lands except as may be otherwise provided by any law for the time being in force, subject to all rights of way and other public rights and to the natural and easement rights of other land owners and to all customary rights legally subsisting.

Explanation I.- Land registered in the name of a person but subsequently abandoned or relinquished, and all lands held by right of escheat, purchase, resumption, reversion or acquisition under the Land Acquisition Act for the time being in force as Government lands within the meaning of this sub-section.

Explanation II.- In this sub-section, the expression 'high water mark' means the highest point reached by the ordinary spring tide at any season of the year."

23. As per clause (2) of Section 2 of the 1960 Act, in the Act, unless the context otherwise requires, (a) 'assignment' includes a transfer of land by way of lease and a grant of licence for the use of land; (b) 'assignee' includes his heirs; (c) 'prescribed' means prescribed by rules made under this Act.

W.P.(C)No.1801 of 2010

24. Section 3 of the 1960 Act deals with the assignment of Government land. As per sub-section (1) of Section 3, renumbered by the Kerala Decentralisation of Powers Act, 2000, Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed. As per sub-section (2), inserted by the Kerala Decentralisation of Powers Act, 2000, no Government land assignable for public purpose may be assigned under sub-section (1) without consulting the local authority as defined in the Kerala Panchayat Raj Act, 1994 or the Kerala Municipality Act, 1994, as the case may be, and if such local authority required such land, for carrying out any of the functions assigned to it, Government may set apart such land for that purpose. As per the Explanation to Section 3, any restriction as to alienation, whether voluntary or otherwise, of the rights of the assignee, shall be a restriction within the meaning of this Section.

25. Section 4 of the 1960 Act deals with the procedure to be followed before Government lands are assigned. As per sub-section (1) of Section 4, when any Government land is proposed to be assigned by the prescribed authority, otherwise than by way of lease or licence, the Tahsildar of the taluk in which the land is situate or any officer empowered by the Government in this behalf

W.P.(C)No.1801 of 2010

shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned, and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time which shall be specified in such notification. As per sub-section (2) of Section 4, if any objection is preferred within the time specified in the notification, the Tahsildar or such other officer shall enquire into the same and pass an order in writing either accepting or rejecting the claim in full or in part and intimate in writing the fact of such disposal to the claimant. As per sub-section (3) of Section 4, for the purposes of the enquiry under sub-section (2), the officer making the enquiry shall have all the powers conferred upon the Collectors and Tahsildars by the law for the time being in force regarding the summoning of persons for disposal of matters connected with revenue administration.

26. Section 5 of the 1960 Act deals with the order of assignment. As per Section 5, when the time fixed in the notification under sub-section (1) of Section 4 has elapsed and no objection has been preferred; or when any objection preferred is rejected and the time for preferring an appeal from the order has elapsed and no appeal has been preferred; or when an appeal has been preferred and the appeal is rejected by the appellate

W.P.(C)No.1801 of 2010

authority the land may, subject to such rules as may be made by the Government in this behalf, be assigned by the prescribed authority.

27. As per Section 8 of the 1960 Act, all the provisions, restrictions, conditions and limitations contained in any patta or other document evidencing the assignment of Government land or of any interest therein shall be valid and take effect according to their tenor, notwithstanding any law for the time being in force or any custom or contract to the contrary. As per the Explanation to Section 8, the expression 'Government land' in Section 8 shall include land under the control or management of the Government at the time of the assignment.

28. Section 7 of the 1960 Act deals with the rule-making power of the Government. As per sub-section (1) of Section 7, the Government may make rules, either prospectively or retrospectively, in respect of the matters enumerated in clauses (a) to (q) thereof. The matters enumerated in the said clauses include the power to prescribe the manner in which assignment of land may be made, whether by public auction or otherwise; the qualifications of persons to whom assignment of lands may be made; the order of priority for the assignment of land, whether by public auction or otherwise; etc.

W.P.(C)No.1801 of 2010

29. In exercise of the rule-making power under Section 7 of the 1960 Act, the Government made the Kerala Land Assignment Rules, 1964, vide G.O.(P)No.200/Rev. dated 23.03.1964, in supersession of the Rules for Assignment of Government lands issued under notifications I and II G.O.(P)No.1029/Rev. dated 18.10.1958, published in the Kerala Gazette Extra No.107. Clause (c) of Rule 2 of the 1964 Rules, substituted by G.O.(P)No.687/67/RD dated 30.12.1967, defines 'assignment' to mean transfer of land by way of registry and includes a lease and a grant of licence for the use of the land. Clause (cc) of Rule 2, inserted by G.O.(P)No.285/66/Rev. dated 17.05.1966, defines 'encroachment not considered objectionable' to mean encroachment on Government land, which is available for assignment, by a person or a family eligible to get land, on registry under these rules. Clause (cd) of Rule 2, inserted by G.O.(P)No. 687/67/RD dated 30.12.1967, defines 'beneficial enjoyment' to mean the enjoyment of land for purposes like providing an approach road to the assignee's registered holding and protection of his watercourse, standing crops and buildings.

30. Clause (d) of Rule 2 of the 1964 Rules defines 'family' to include a person, his wife or her husband, their children living with or dependent on them, and also the parents who are solely

W.P.(C)No.1801 of 2010

dependent on such person. As per clause (e) of Rule 2, 'Government lands' shall, for purposes of these rules, consist of lands belonging to Government and available for assignment as per lists prepared by the Revenue Department and approved by the competent authority under these rules, and such other lands as may be set apart for purposes of these rules. As per Rule 3, assignment of land under these rules shall be without auction. As per Rule 4, which deals with purposes for which land may be assigned, Government lands may be assigned on registry for purposes of personal cultivation, house-sites and beneficial enjoyment of adjoining registered holdings.

31. Rule 5 of the 1964 Rules deals with the maximum limit to be assigned for cultivation. As per sub-rule (1) of Rule 5, as it originally stood, the extent of land that shall be registered in favour of a single family, for personal cultivation by members of the family, shall not ordinarily exceed one acre of wet land or three acres of dry land in the plains and two acres of wet land and five acres of dry land in hilly tracts. As per sub-rule (3) of Rule 5, where a family holds Government land on lease, whether current or time expired, and/or by way of encroachment not considered objectionable, and such land exceeds the limit prescribed under sub-rule (1), the entire land may be given to it on registry. As per

W.P.(C)No.1801 of 2010

sub-rule (1) of Rule 5, substituted by G.O.(P)No.285/66/Rev. dated 17.05.1966, the extent of land that shall be registered in favour of a single family for personal cultivation by members of the family shall not ordinarily exceed, (a) in the case of unoccupied lands, not more than fifty cents of land, whether wet or dry, in the plains and one acre of wet land or three acres of dry land in hilly tracts; (b) in the case of lands held on lease, whether current or time expired or by way of encroachment not considered objectionable, the lessee or encroacher, as the case may be, will be eligible for assignment of not more than fifty cents of land, whether wet or dry, in the plains, and one acre of land, whether wet or dry in hilly tracts. Land, if any, held in excess of this area shall be surrendered to the Government, and no compensation shall be payable for the lands so surrendered. Thereafter, by G.O.(P)No.425/2014/RD dated 30.09.2014, sub-rule (1) of Rule 5 was substituted, as follows; the extent of land that shall be registered in favour of a single family for personal cultivation by members of the family shall not ordinarily exceed, (a) in the case of unoccupied lands, one acre of land whether wet or dry, in the plains and one acre of wet land or three acres of dry land in hilly tracts; (b) in the case of lands held on lease whether current or time expired or by way of encroachment not considered

W.P.(C)No.1801 of 2010

objectionable, (i) where there are no valuable improvements effected on the land by the occupant, one acre of land, whether wet or dry, in the plains and one acre of wet land or three acres of dry land in hilly tracts; (ii) where there are valuable improvements effected on the land by the occupant two acres of land wet or dry in the plains and two acres of wet land or four acres of dry land in hilly tracts.

32. As per Note to sub-rule (1) of Rule 5 of the 1964 Rules, substituted in the case of occupied lands and lands held on lease, whether current or time expired, or by way of encroachment not considered objectionable, where the occupant has not effected valuable improvements on the lands, one acre of wet land in the plains shall be deemed to be equivalent to one acre of dry land, and one acre of wet land in the hilly tracts shall be deemed to be equivalent to three acres of dry land; and in the case of lands held on lease, whether current or time expired or by way of encroachments not considered objectionable, where the occupant has effected valuable improvements on the lands, one acre of wet land in the plains shall be deemed to be equivalent to one acre of dry land and one acre of wet land in the hilly tracts shall be deemed to be equivalent to two acres of dry land. As per sub-rule (2) of Rule 5, when a family owns or holds any land over which it

W.P.(C)No.1801 of 2010

has proprietary right or has security of tenure, only the balance of the extent of Government land necessary to make up the extent admissible under sub-rule (1) shall be granted to it on registry.

33. As per clause (i) of the Explanation to Rule 5 of the 1964 Rules, for the purposes of the rule, the Taluks and Villages enumerated in clauses (a) to (i) shall be treated as hilly tracts. As per clause (ii) of the Explanation, substituted vide G.O.(P)No. 338/68/RD dated 24.06.1968, 'valuable improvements' shall mean improvements by cultivation of tea, coffee, rubber, cardamom, arecanut, pepper or coconut or by way of construction of contour bunds or kaval bunds or by way of construction of buildings. As per clause (iii) of the Explanation, substituted vide G.O.(P)No.338/68/RD dated 24.06.1968, for the purpose of calculating the extent of land that may be assigned to a family, the total extent of land possessed or held with proprietary right or fixity of tenure by the head of the family and also the members of the family both individually and collectively shall be taken into account. Assignment made in favour of a family under these rules shall, for the purpose of calculating the maximum extent that may be so assigned, include assignment made to members of the family both individually and collectively, the total extent so assigned not exceeding the maximum area that may be assigned

W.P.(C)No.1801 of 2010

to that family. The area under encroachment by a member of a family shall, for the purpose of these rules, be deemed as the area under encroachment by the family.

34. Rule 6 of the 1964 Rules deals with the assignment for house site and for beneficial enjoyment. As per sub-rule (1) of Rule 6, the extent of Government land that shall be registered in favour of a family as a house site shall not exceed twenty-five cents (10 Ares). The assignee shall be liable to pay land value for house sites at the rate of Rs.200/- per Acre (40.47 Ares). The words and figure 'twenty-five cents (10 Ares)' were substituted by the words and figure 'fifteen cents (6.072 Ares)' and the words Rs.200/- per Acre (40.47 Ares) were substituted by the words and figure 'Rs.200/- per cent' by G.O.(P)No.63/2005/RD dated 03.03.2005. As per sub-rule (2) of Rule 6, the extent of Government land that may be granted on registry when the same is indispensably required for the beneficial enjoyment of adjoining registered holdings shall not exceed in each case twenty-five cents (10.12 Ares). The words and figure 'shall not exceed in each case twenty-five cents (10.12 Ares)' were substituted by the words 'shall not exceed in the case of one registered holding twenty-five cents (10.12 Ares)' by G.O.(P)No.687/67/RD dated 30.12.1967. Thereafter, the words and figure 'twenty-five cents (10.12 Ares)'

W.P.(C)No.1801 of 2010

were substituted by the words and figure 'fifteen cents (6.072 Ares)' by G.O.(P)No.63/2005/RD dated 03.03.2005.

35. As per Note (1) to Rule 6 of the 1964 Rules, added by G.O.(P)No.531/66/Rev. dated 28.09.1966, the authority competent to assign land for beneficial enjoyment shall be the Revenue Divisional Officer. He may pass an order of assignment in such cases only after personally satisfying himself that the land is absolutely necessary for that purpose. As per Note (2) to Rule 6, prior to its omission by G.O.(P)No.687/67/RD dated 30.12.1967, if in any case, which does not come under any of the purposes mentioned in the definition of 'beneficial enjoyment', the District Collector on personal inspection considers that the land is required for beneficial enjoyment, he may assign the land in such cases. As per the proviso to Note (2), the total extent of land held by the assignee on registry, together with the extent of land assigned under sub-rule (1) or sub-rule (2), shall not exceed the maximum limit prescribed under sub-rule (1) of Rule 5.

36. As per Note (3) to Rule 6 of the 1964 Rules, an assignment under sub-rule (2) shall be subject to the payment of - (a) market value of the land assigned and survey and demarcation charges at the rates specified in sub-rule (4) of Rule 10, where the assignment is in favour of a person whose annual

W.P.(C)No.1801 of 2010

family income exceeds Rs.3,000; (b) the land value, tree value and survey and demarcation charges at the rates prescribed by or under Rule 10, where the assignment is in favour of a person whose annual family income does not exceed Rs.3,000. Note (3) to Rule 6, substituted by G.O.(P)No.202/75/RD dated 24.02.1975, provides that an assignment under sub-rule (2) shall be subject to the payment of market value of the land at the time of assignment and survey and demarcation charges at the rates specified in sub-rule (4) of Rule 10, excluding the value of improvements, if any, made by the occupants on the land.

37. Rule 7 of the 1964 Rules deals with priority to be observed in assignment. As per sub-rule (1) of Rule 7, as it originally stood, in granting registry, the order of preference in clauses (i) to (iii) thereof shall be observed. As per clause (i) of sub-rule (1) of Rule 7, first preference shall be for persons already in occupation of Government lands under lease, current or time expired, or by way of encroachment not considered objectionable, provided that the total extent of land, if any, held by them in proprietary right or with security of tenure, is less than the maximum limits laid down in sub-rule (1) of Rule 5 or the annual income from sources, other than the Government lands held by them, is below Rs.1,500/-. As per clause (ii) of sub-rule (1) of Rule

W.P.(C)No.1801 of 2010

7, the second preference is for persons who do not own or hold any land either in proprietary right or with security of tenure, and have no other source of income, that is to say, landless and indigent persons and the like. As per clause (iii) of sub-rule (1) of Rule 7, the third preference is for persons whose annual family income does not exceed Rs.1,500/- and the total extent of the lands owned or held by them either in proprietary right or with security tenure is less than the maximum extent prescribed in the Rules.

38. Rule 7 of the 1964 Rules was substituted by G.O.(P)No. 687/67/RD dated 30.12.1967. As per sub-rule (1) of Rule 7, substituted by the said Government order dated 30.12.1967, where any person is in occupation of Government lands under lease, whether current or time expired, or by way of encroachment not considered objectionable, such lands shall be assigned to him on registry. As per the proviso to sub-rule (1) of Rule 7, the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5 or the annual family income from sources other than the Government lands held by him is below Rs.1,500/-. As per sub-rule (2) of Rule 7, in the case of unoccupied lands, the order of preference in clauses (i) to (v) shall be observed in granting

W.P.(C)No.1801 of 2010

registry. The words "such lands shall be assigned to him on registry" in sub-rule (1) of Rule 7 of the Rules were substituted by the words "such land, if such occupation is before the 1st day of August, 1971, shall be assigned to him on registry", vide G.O.(P) No.336/71/RD dated 03.08.1971.

39. By G.O.(P)No.63/2005/RD dated 03.03.2005, the first proviso to sub-rule (1) of Rule 7 of the 1964 Rules was substituted, to provide that the annual family income from sources other than the Government lands held by him is below Rs.30,000/-. The annual family income from sources other than the Government lands was thereafter enhanced to Rs.75,000/- and then to Rs.1,00,000/- vide G.O.(P)No.450/2014/RD dated 28.10.2014. The first proviso to sub-rule (1) of Rule 7, after its substitution by G.O.(P)No.60/2017/RD dated 17.08.2017, provides that the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5. As per the second proviso to sub-rule (1) of Rule 7, in the case of any land set apart for assignment on registry to the members of Scheduled Caste/Scheduled Tribe and subsequently encroached upon by those persons who are landless and eligible for assignment of land under these Rules, such land may be assigned to such encroachers, only after setting apart equal extent

W.P.(C)No.1801 of 2010

of other suitable unoccupied area for the members of Scheduled Caste/Scheduled Tribe Community. The third proviso to sub-rule (1) of Rule 7, omitted by G.O.(P)No.60/2017/RD dated 17.08.2017, in the case of landless Scheduled Caste and Scheduled Tribe families, the income limit mentioned in the first proviso shall not be applicable.

40. As per sub-rule (3) of Rule 7 of the 1964 Rules, no registry shall be granted to any family in occupation of Government land either under a lease, current or time expired, or by way of encroachment, unless it surrenders to Government, without claiming any compensation, the land in excess of the extent proposed to be registered in its favour. If there is excess land in its possession and if it is not willing to surrender the excess land, eviction will be resorted to.

41. Rule 11 of the 1964 Rules deals with the preparation of a list of assignable land. As per sub-rule (1) of Rule 11, before granting registry, the Government shall cause to be prepared lists of the lands which should be reserved for Government or public purposes in each village and lists of the lands which may be made available for assignment in each village. As per sub-rule (2) of Rule 11, the lands to be reserved for Government or public purposes shall include, among others, those enumerated in

W.P.(C)No.1801 of 2010

clauses (i) to (x), as may be found necessary. As per sub-rule (3) of Rule 11, after setting apart the lands required for future Government or public purposes, as stated in sub-rule (2), 25 per cent of the land available for assignment in each village shall be reserved for assignment to members of the Scheduled Castes and Tribes and ten per cent of such land shall be reserved for assignment to Ex-servicemen.

42. Rule 12 of the 1964 Rules deals with the enquiry to be held. As per sub-rule (1) of Rule 12, substituted by G.O.(P)No. 285/66/Rev dated 17.05.1966, before considering an application for assigning the land, the Tahsildar shall publish a notice under his signature inviting objections in writing from interested persons to the registry of land. The notice shall be in the form in Appendix V to these rules and give a minimum of fifteen days' time from the date of publication for preferring objections, and the Tahsildar may, in his discretion, admit objections received after that period. The notice shall be published by affixture in a conspicuous place in the land concerned and also in the Village Panchayat and Taluk offices, and such publication shall be deemed to be legal and sufficient for purposes of these rules. Sub-rules (2) to (4) of Rule 12 deal with the procedure that has to be followed by the Tahsildar and the District Collector.

W.P.(C)No.1801 of 2010

43. Rule 12A of the 1964 Rules was inserted by G.O.(P)No. 331/68/RD dated 21.06.1968. As per clause (i) of Rule 12A, notwithstanding anything contained in sub-rules (3) and (4) of Rule 12, the Government may constitute, for each Taluk, a Committee called the Taluk Land Assignment Committee, which may consist of officials and non-officials, for advising the Tahsildar in regard to the assignment on registry of lands available for assignment (vide Rule 11) for personal cultivation or house sites. As per clause (v) of Rule 12A, the Committee shall consider applications for assignment of land on registry for personal cultivation or house sites. Only those lands which are listed as available for assignment under Rule 11 of the Rules shall come within the purview of the Committee. The Tahsildar shall place before the Committee all applications for registry of land of the aforesaid category, along with the relevant records of enquiry under Rule 12. After consideration of the applications as also the records of enquiry, particularly the objections or claims, if any, the Committee shall give its advice strictly according to the preferences stated in the Rules as to the persons to whom the particular lands may be assigned. The Committee will indicate the survey number, extent and such other particulars as are necessary to identify the lands that are proposed to be assigned in each case.

W.P.(C)No.1801 of 2010

The assignment of lands to institutions, companies, for commercial purposes, and for schemes will be outside the purview of the Committee.

44. A reading of the aforesaid provisions under the 1960 Act and the 1964 Rules, which deal with the assignment of Government land, would make it explicitly clear that, under sub-section (1) of Section 3 of the Act, the Government lands may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions as may be prescribed. Section 4 deals with the procedure to be followed before Government lands are assigned. The rule-making power of the Government under clauses (a) to (q) of sub-section (1) of Section 7 includes the power to prescribe the manner in which assignment of land may be made; the qualifications of persons to whom assignment of lands may be made; the order of priority for the assignment of land, whether by public auction or otherwise; etc.

45. The 'encroachment not considered objectionable', as defined by clause (cc) of Rule 2 of the 1964 Rules, inserted by G.O.(P)No.285/66/Rev. dated 17.05.1966, means encroachment on Government land, which is available for assignment, by a person or a family eligible to get land, on registry under these

W.P.(C)No.1801 of 2010

rules. In view of the provisions under Rule 4, the purposes for which Government lands may be assigned on registry are personal cultivation, house-sites and beneficial enjoyment of adjoining registered holdings.

46. Rule 5 of the 1964 Rules deals with the maximum limit of Government lands to be assigned for cultivation, in favour of a single family for personal cultivation by members of the family. As per sub-rule (3) of Rule 5, as it originally stood, where a family holds Government land on lease, whether current or time expired, and/or by way of encroachment not considered objectionable, and such land exceeds the limit prescribed under sub-rule (1), the entire land may be given to it on registry. After the substitution of Rule 5, by G.O.(P)No.687/RD dated 30.12.1967, clause (b) of sub-rule (1) of Rule 5 deals with the maximum limit, in the case of lands held on lease, whether current or expired or by way of encroachment not considered objectionable. Rule 6 deals with the assignment for house site and for beneficial enjoyment.

47. The priority to be observed in the assignment is governed by the provisions of Rule 7 of the 1964 Rules. As per sub-rule (1) of Rule 7, as it originally stood, in granting registry the order of preference in clauses (i) to (iii) thereof shall be observed. The first preference, as per clause (i) of sub-rule (1) of

W.P.(C)No.1801 of 2010

Rule 7, shall be for persons already in occupation of Government lands under lease, current or time expired, or by way of encroachment not considered objectionable, provided that the total extent of land, if any, held by them in proprietary right or with security of tenure, is less than the maximum limits laid down in sub-rule (1) of Rule 5 or the annual income from sources, other than the Government lands held by them, is below Rs.1,500/-.

48. As per sub-rule (1) of Rule 7 of the 1964 Rules, substituted by G.O.(P)No.687/67/RD dated 30.12.1967, where any person is in occupation of Government lands under lease, whether current or time expired, or by way of encroachment not considered objectionable, such lands shall be assigned to him on registry. As per the proviso to sub-rule (1) of Rule 7, the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5 or the annual family income from sources other than the Government lands held by him is below Rs.1,500/-. The words "such lands shall be assigned to him on registry" in sub-rule (1) of Rule 7 of the Rules were substituted by the words "such land, if such occupation is before the 1st day of August, 1971 shall be assigned to him on registry", vide G.O.(P)No.336/71/RD dated 03.08.1971.

W.P.(C)No.1801 of 2010

49. A reading of the provisions of sub-rule (1) of Rule 7 of the 1964 Rules, as it originally stood, which was substituted by G.O.(P)No.687/67/RD dated 30.12.1967 and thereafter, by G.O. (P)No.336/71/RD dated 03.08.1971, would show that, by way of the amendment made vide the Government order dated 03.08.1971, which was published in the Kerala Gazette Extra No.346 dated 06.08.1971, the Government introduced a cut-off date, i.e., 1st day of August, 1971, for occupation of Government land, by way of encroachment not considered objectionable, for being considered for giving priority in assignment under sub-rule (1) of Rule 7 of the 1964 Rules, provided that the total extent of land, if any, owned by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5. Till such time, there was nothing in the 1964 Rules, which would indicate that only those who are in occupation of Government land, by way of encroachment not objectionable, till the notification of the 1964 Rules vide G.O.(P) No.200/Rev dated 23.03.1964, alone are entitled to assignment under sub-rule (1) of Rule 7. Therefore, as rightly contended by the learned Advocate General, by way of the amendment made to sub-rule (1) of Rule 7, which was notified in Kerala Gazette on 06.08.1971, the Government introduced 1st day of August, 1971 as cut-off date for

W.P.(C)No.1801 of 2010

occupation of Government land, by way of encroachment not considered objectionable, for giving priority in assignment under sub-rule (1) of Rule 7.

50. We also notice that a Full Bench of this Court in **Nature Lovers Movement [ILR 2000 (1) Ker 677]** upheld the fixation of cut-off date as the 1st day of July, 1977 in the Land Assignment (Regularisation of Occupation of Forest land prior to 01.01.1977) Special Rules, 1993, made under the Kerala Government Land Assignment Act, 1960, whereby the Government decided to issue patta to those who are occupying forest land prior to 01.01.1977. The decision of the Full Bench was upheld by the Apex Court in **Nature Lovers Movement [(2009) 5 SCC 373]**.

51. It is well settled by the decision of a Division Bench of this Court in **Pankajaksy [1987 (2) KLT 723]** that a rule made under a statute by an authority delegated for the purpose can be challenged only on the grounds that it is ultra vires of the Act; it is opposed to the fundamental rights; it is opposed to other plenary laws. To ascertain whether the rule is ultra vires of the Act, the Court can go into the question whether it contravenes expressly or impliedly any provisions of the statute, whether it achieves the intent and object of the Act; and whether it is

W.P.(C)No.1801 of 2010

unreasonable to be manifestly arbitrary, unjust or partial, implying thereby want of authority to make such rules.

52. No such grounds are made out, raising a valid challenge against the amendment made to sub-rule (1) of Rule 7 of the 1964 Rules, vide G.O.(P)No.336/71/RD dated 03.08.1971, which was notified vide Gazette notification dated 06.08.1971, or to Rule 5 of the said Rules.

53. The provisions under the 1960 Act and the 1964 Rules, which deal with the assignment of the Government land, which we have dealt with in detail in paragraphs 22 to 28 and 29 to 43, respectively, would make it explicitly clear that an 'encroachment not considered objectionable', as defined in clause (cc) of Rule 2 of the 1964 Rules, shall be by a person or a family eligible to get land on Registry under the 1964 Rules. As per clause (d) of Rule 2, the term 'family' includes a person, his wife or her husband, their children living with or dependent on them, and also the parents who are solely dependent on such person. As per clause (e) of Rule 2, 'Government lands' shall, for purposes of these rules, consist of lands belonging to the Government and available for assignment as per lists prepared by the Revenue Department and approved by the competent authority under these rules, and such other lands as may be set apart for purposes of these rules.

W.P.(C)No.1801 of 2010

As per sub-rule (1) of Rule 7, where any person is in occupation of Government lands under lease, whether current or time expired, or by way of encroachment not considered objectionable, such land if such occupation is before the 1st day of August, 1971 shall be assigned to him on registry, provided that the total extent of land, if any, owned or held by him in proprietary right or with security of tenure is less than the limits laid down in sub-rule (1) of Rule 5. Any assignment of Government lands on the registry, under the provisions of the 1964 Rules, has to be made strictly in accordance with the restrictions, limitations and conditions prescribed under the said Rules. The files relating to the assignment of land shall contain specific findings of the competent authority on the restrictions, limitations and conditions prescribed under the 1964 Rules, with reference to the applicant and his 'family', as defined in clause (d) of Rule 2 of the said Rules. In the case of assignment of lands under sub-rule (1) of Rule 7, to a person, who claims occupation of that land under lease, whether current or time expired, or by way of encroachment not considered objectionable, the files relating to assignment on registry shall contain specific findings of the competent authority on the restrictions, limitations and conditions prescribed under the 1964, with reference to the applicant and his 'family' as defined in clause

W.P.(C)No.1801 of 2010

(d) of Rule 2 of the said Rules and also a specific finding, supported by documents, that such occupation is before the 1st day of August, 1971. In the order dated 12.08.2024 in W.P.(C)No.1801 of 2010, the Division Bench noticed the pendency of various CBCID cases in Idukki district, out of which in about 18 cases the prosecution allegation is in relation to forging of Patta to grab Government land. Government officials are also arrayed as accused in those cases. Therefore, the genuineness of the documents in support of the claim of occupation of the land before the 1st day of August 1971, shall be verified by the competent authority under the 1960 Act and the 1964 Rules, before taking a decision on the application for assignment on registry.

54. In **Varkey Abraham v. Secretary to Government, Revenue Department [2007 (3) KHC 365]**, a Division Bench of this Court noticed that various provisions in the Kerala Government Land Assignment Act, 1960 and the Kerala Land Assignment Rules, 1964 would unmistakably show that the Act and Rules are intended to protect landless people by assigning to them Government lands for cultivation and other purposes. The Rules contain provisions for extending priority to landless people, members of the Scheduled Caste and Scheduled Tribes, Ex-servicemen, persons disabled in active military service, etc. The

W.P.(C)No.1801 of 2010

Act and Rules are not intended for enriching persons who hold extensive lands. Assignment on registry of Government land to such persons would defeat the very purpose of the Act and Rules. There is no vested right in any person to claim assignment on registry of Government land.

55. For the reasons stated hereinbefore at paragraphs 49 and 52, we deem it appropriate to modify the interim order dated 10.01.2024 of the Division Bench in W.P.(C)No.1801 of 2010, by permitting the State and the competent authority under the 1960 Act and the 1964 Rules to consider the applications for assignment of Government land on registry, under sub-rule (1) of Rule 7 of the 1964 Rules, by persons who claim occupation of Government land, by way of an encroachment not considered objectionable, if such occupation is before the 1st day of August, 1971, strictly in accordance with the restrictions, limitations and conditions prescribed under the 1964 Rules, after recording specific findings in terms of the directions contained hereinbefore at paragraph 53. Before issuing pattas, the competent authority under the 1960 Act and the 1964 Rules shall ensure that the files contain specific findings in terms of the directions contained hereinbefore at paragraph 53.

W.P.(C)No.1801 of 2010

W.P.(C)No.1801 of 2010

List along with the tagged matters on 25.02.2026.

Sd/-

ANIL K. NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

MIN



APPENDIX OF WP(C) 1801/2010

Exhibit P1	A TRUE COPY OF THE REPORT SUBMITTED BEFORE THE 2ND RESPONDENT BY THE ADDL. DIRECTOR GENERAL OF POLICE [INTELLIGENCE] DATED 01/04/2004.
EXHIBIT P3	A TRUE COPY OF THE JUDGMENT IN O.P.NO.6579 OF 1983 DATED 05/02/1993
EXHIBIT P4	A TRUE COPY OF THE LETTER NO.8/118/86/FC DATED 31/1/1995 ISSUED BY THE ADDL. INSPECTOR GENERAL OF FOREST MINISTRY OF ENVIRONMENT AND FOREST

