

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN
Wednesday, the 10th day of January 2024 / 20th Pousha, 1945
WP(C) NO. 1801 OF 2010(S)

PETITIONER:

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.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.
2. THE PRINCIPAL SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE, THIRUVANANTHAPURAM.
3. THE SECRETARY TO GOVERNMENT, DEPARTMENT OF FORESTS & WILD LIFE, THIRUVANANTHAPURAM.
4. THE DISTRICT COLLECTOR, IDUKKI.
5. THE DIVISIONAL FOREST OFFICER MUNNAR.

ADDL. R6 IMPEADED

6. VINOD P.K., AGED 34 YEARS, S/O. P.C.KOCHUKUNJU, PUTHUPARAPADIKAL, PALLIVASAL P.O., SECOND-MILE, IDUKKI DISTRICT -685 565.

IS IMPEADED AS ADDITIONAL RESPONDENT NO.6 VIDE ORDER
DATED 05/03/2010 IN I.A.1888/2010.

ADDL. R7 & R8 IMPEADED

7. M/S.KANAN DEVAN HILLS PLANTATIONS CO. PVT. LTD., KDHP HOUSE, MUNNAR- 685 612, REPRESENTED BY ITS EXECUTIVE DIRECTOR MR.P.M. SRIKRISHNAN.

P.T.O.

8. M/S.TATA TEA LIMITED, SPECIAL PROJECTS OFFICE,
GENERAL HOSPITAL COMPLEX, MUNNAR-685 612,
REPRESENTED BY ITS SENIOR MANAGER- IR
(LEGAL AND ADMINISTRATION) MR.PRATAP RAMDAS.
ARE IMPEADED AS ADDITIONAL R7 & R8 VIDE ORDER
DATED 05/03/2010 IN IA. 3039/2010.
ADDL. R9 IMPEADED
9. S. RAJENDRAN, S/O.SHANMUGHA VELU, AGED 46,
IKKA BHAVAN, IKKA NAGAR, MUNNAR.
IS IMPEADED AS ADDITIONAL R9 VIDE ORDER
DATED 31.05.2010 IN I.A.3471/2010.
ADDL. R10 IMPEADED
10. MAHIN K.U., AGED 28 YEARS, S/O. UMMER,
KUTTAMKULAM, ADIMALY.
IS IMPEADED AS ADDL. R10 VIDE ORDER DATED 06/01/2017 IN
IA.19544/2016.
ADDL. R11 IMPEADED
11. MANJU JINCE, PRESIDENT, BAISON VALLEY PANCHAYAT,
AGED 40 YEARS, D/O. MATHEW, VARANAKUZHIYIL (H),
BAISON VALLEY, IDUKKI.
ADDL. R11 IS IMPEADED AS PER ORDER DATED 13/07/2018 IN
IA.12482/2018.
ADDL. R12 IMPEADED
12. ILLIAS, AGED 57, S/O.SAIDKUNJU, CHOORAVELIL HOUSE,
VELLATHOOVAL P.O., IDUKKI DISTRICT-685 563.
ADDL. R12 IS IMPEADED AS PER ORDER DATED 14/02/2020 IN
IA NO.1/2020 IN WPC.

P.T.O.

ADDL. R13 TO R21 IMPEADED

13. MUNNAR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
14. VELLATHOOVAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
15. PALLIVASAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
16. DEVIKULAM GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
17. CHINNAKKANAL GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
18. BISON VALLEY GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
19. SANTHANPARA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
20. UDUMBANCHOLA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
21. MANKULAM GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.

ADDL. R13 TO R21 ARE SUO MOTU IMPEADED AS PER ORDER
DATED 13/06/2023 IN WPC NO.1801/2010.

ADDL. R22 TO R26 IMPEADED

22. MARAYOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
23. IDAMALAKUDI GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
24. KANTHALLOOR GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
25. VATTAVADA, GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY.
26. NATIONAL ENVIRONMENTAL ENGINEERING RESEARCH

INSTITUTE (CSIR-NEERI), NEHRU MARG, NAGPUR-440020.

ADDL. R22-R26 ARE IMPEADED AS PER ORDER DATED 20/06/2023
IN WPC 1801/2010.

ADDL. R27 IMPEADED

27. THE STATE DISASTER MANAGEMENT AUTHORITY,
REPRESENTED BY ITS MEMBER SECRETARY,
THIRUVANANTHAPURAM, KERALA- 695 033.

ADDL. R27 IS SUO MOTU IMPEADED AS PER ORDER DATED
27/06/2023 IN WPC NO. 1801/2010

P.T.O.

ADDL. R28 IMPEADED

28. V.MOHANKUMAR, SECRETARY PUBLIC INTEREST PROTECTION ASSOCIATION, MUNNAR, PIN - 685 612.
ADDL.R28 IS IMPEADED AS PER ORDER DATED 01/08/2023
IN IA NO. 9375/2018 IN WP(C) NO. 1801/2010.

ADDL. R29 IMPEADED

29. KERALA KARSHAKA SANGHAM, IDUKKI DISTRICT COMMITTEE, IDUKKI, REPRESENTED BY ITS SECRETARY, ROMEO SEBASTIAN, AGED 49 YEARS, S/O. SEBASTIAN, RESIDING AT KOLLAKOMBIL HOUSE, KALVARI MOUNT P.O., IDUKKI - 685 515.
ADDL.R29 IS IMPEADED AS PER ORDER DATED 01/08/2023
IN IA NO. 3/2023 IN WP(C) NO. 1801/2010.

ADDL. R30 IMPEADED

30. THE DISTRICT POLICE CHIEF, IDUKKI.
ADDL. R30 IS SUO MOTU IMPEADED AS PER ORDER
DATED 01/08/2023 IN WP(C) NO. 1801/2010.

ADDL. R31 IMPEADED

31. REJI JAICOB, AGED 54 YEARS, SON OF JAICOB, PRESIDENT, KERALA KARSHAKA UNION (M), STATE COMMITTEE OFFICE, NEAR FIRE STATION, PALACE ROAD, KOTTAYAM - 686 001.
ADDL.R31 IS IMPEADED AS PER ORDER DATED
08/08/2023 IN IA NO. 5/2023 IN WP(C) NO. 1801/2010.

ADDL. R32 IMPEADED

- 32.ATHIJEEVANA PORATTA VEDHI, IDUKKI (REG NO:IDK/TC/195/2018), REPRESENTED BY CHAIRMAN, C.S RAZAK, AGED 55 YEARS, S/O LATE SAITH KUNJ, CHOORAVELIL HOUSE, VELLATHOOVAL WEST, VELLATHOOVAL P.O., IDUKKI DISTRICT, PIN – 685563
ADDL.R32 IS IMPEADED AS PER ORDER DATED
22/08/2023 IN IA NO. 1/2023 IN WP(C) NO. 1801/2010

ADDL. R33 IMPEADED

33.DEAN KURIAKOSE, AGED 42 YEARS,S/O.A.M.KURIAKOSE,
ANANICKAL HOUSE, PAINGOTTOOR P.O., KULAPPURAM,
MUVATTUPUZHA, ERNAKULAM DISTRICT, PIN 686 671

ADDL.R33 IS IMPEADED AS PER ORDER DATED
22/08/2023 IN IA NO. 4/2023 IN WP(C) NO. 1801/2010.

ADDL. R34 IMPEADED

34.SAJEEV SEBASTIAN, AGED 51 YEARS, S/O SEBASTIAN,
KONDATTUPARAMBIL HOUSE, SHANTHANPARA, PUTHADY P.O,
RAJAPPARA, IDUKKI DISTRICT-685619

ADDL.R34 IS IMPEADED AS PER ORDER DATED
22/08/2023 IN IA NO. 6/2023 IN WP(C) NO. 1801/2010.

ADDL. R35 IMPEADED

35.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

ADDL.R35 IS IMPEADED AS PER ORDER DATED
22/08/2023 IN IA NO. 8/2023 IN WP(C) NO. 1801/2010.

ADDL. R36 IMPEADED

36.GIGGY DANI,WIFE OF DANI THOMAS, 10-C,
LORDS SKYLINE IMPERIAL GARDENS , PALARIVATTAM,
KALOOR. P.O., DIST. ERNAKULAM,682017

ADDL.R36 IS IMPEADED AS PER ORDER DATED
22/08/2023 IN IA NO. 9/2023 IN WP(C) NO. 1801/2010.

P.T.O.

ADDL. R37 IMPEADED

37. 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.

ADDL. R37 IS IMPEADED AS PER ORDER DATED 05/09/2023
IN WP(C) 1801/2010(S).

ADDL. R38 IMPEADED

38. THE ELECTION COMMISSION OF INDIA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI – 110 001.

ADDL. R38 IS SUO MOTU IMPEADED AS PER ORDER DATED
10/10/2023 IN WP(C) 1801/2010(S)

ADDL. R39 & R40 IMPEADED

39. JOSEPH VARKEY S/O. VARKEY, AGED 79 YEARS,
CHITHRAPURAM. P.O., ANCHAL, DEVIKULAM TALUK,
IDUKKI DISTRICT, PIN-685565

40. LILLY GEORGE W/O. JOSEPH VARKEY, AGED 72 YEARS,
CHITHRAPURAM. P.O., ANCHAL, DEVIKULAM TALUK,
IDUKKI DISTRICT, PIN-685565

ADDL. R39 AND R40 ARE IMPEADED AS PER ORDER
DATED 31.10.23 IN IA 13/23 IN WP(C) 1801/10

ADDL. R41 IMPEADED

41. HIGH RANGE TOTAM TOZHILALI UNION
REG. NO. 06-7 OF 1996, SANTHANPARA, IDUKKI,
REPRESENTED BY ITS PRESIDENT, V.N MOHANAN,
AGED 60 YEARS, S/O NARAYANAN, VILAYALIL(H),
VATTAPPARA P.O, IDUKKI DISTRICT-685619

ADDL. R41 IS IMPEADED AS PER ORDER DATED
31.10.23 IN IA 16/23 IN WP(C) 1801/10

ADDL. R42 IMPEADED

42. THE DIRECTOR, DIRECTORATE OF SURVEY,

THIRUVANANTHAPURAM - 695 014.

ADDL. R42 IS SUO MOTU IMPEADED AS PER ORDER

DATED 14/11/2023 IN WP(C) 1801/10.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct respondents 1 and 2 to declare a moratorium on all land deals in Devikulam, Udumbanchola and Peerumedu taluks in Idukki district and to stop all constructions sanctioned at Chinnakkanal, Pallivasal, Devikulam, Udumbanchola and Peerumedu taluks in Idukki district until an inquiry was held into the genuineness of the title deeds, pending disposal of the writ petition in the interest of justice.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(C), this Court's order dated 09/01/2024 and upon hearing the arguments of SMT.DAISY A.PHILIPOSE, Advocate for the petitioner, 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 R1 to R5, Addl.R30 & Addl.R42, SRI.K.RAMAKUMAR (Senior Advocate) along with SMT.SMITHA GEORGE, Advocates for Addl.R6, SRI.JOSEPH KODIANTHARA (Senior Advocate) along with M/S. MATHEWS K.UTHUPPACHAN, BINU MATHEW, TERRY V.JAMES & B.J. JOHN PRAKASH, Advocates for Addl.R7 and Addl.R8, SRI.S.SREEKUMAR, SENIOR ADVOCATE for Addl. R9, SRI.MATHEW A.KUZHаланADAN, Advocate for Addl. R10 and of M/S.MATHEW A.KUZHаланADAN, V. SHYAMOHAN & ANITHA MATHAI MUTHIRENTHY, Advocates for Addl. R11, SRI.G. SREEKUMAR (CHELUR), Advocate for R12, STANDING COUNSELS for R13, R14, R16 & R20, SRI.JOICE GEORGE, STANDING COUNSEL for R15 & R19, SRI.ARUN THOMAS, Advocate for R17 & R25, M/S. N.K.SHYJU, GIREESH PANKAJAKSHAN, ANANYA M. & VISHNU MOHAN, Advocates for R18, M/S. A.S.DILEEP, P.BINOD, K.Y.SUDHEENDRAN, SUSEELA DILEEP, SUDEEP ARAVIND PANICKER and HARITHA HARINATH, Advocates for R22, SRI.S. MANU, DEPUTY SOLICITOR GENERAL OF INDIA & CENTRAL GOVERNMENT COUNSEL for R26 & R37, SRI.BINOY VASUDEVAN, Advocate for Addl.R28, SRI.D.KISHORE, Advocate for Addl.29, M/S. AUGUSTINE JOSEPH, TONY AUGUSTINE & AISWARYA E J VETIKOMPIL, Advocates for Addl.R31, M/S.PEEYUS A.KOTTAM & R.G.RAGESH CHAND, Advocates for ADDL.R32, M/S.ARUN THOMAS and SHINTO MATHEW ABRAHAM, Advocates for ADDL.R33, M/S.ASWATHY KRISHNAN and A.L.NAVANEETH KRISHNAN, Advocates for Addl.R34, SRI.S.SREEKUMAR, SENIOR ADVOCATE a/w SRI.LIJI J.VADAKKEDOM, Advocates for Addl.R35, M/S. K.REGHU KOTTAPPURAM, MAHESH R (KOTTAPPURAM) & MURUKESH REGHU, Advocates for Addl.R36, SRI.DEEPU LAL MOHAN, STANDING COUNSEL for Addl.R38, M/S. M.S.RADHAKRISHNAN NAIR and ELIZEBATH GEORGE, Advocates for Addl.R39 & Addl.R40, M/S.K.N.ABHILASH and SUNIL NAIR PALAKKAT, Advocates for Addl.R41 and of SENIOR ADVOCATE SRI.RENJITH THAMPAN and ADVOCATE SRI.HARISH VASUDEVAN, AMICI CURIAE, the court passed the following:-

A.MUHAMED MUSTAQUE & SHOBA ANNAMMA EAPEN, JJ.

W.P (C) No.1801 of 2010

Dated this the 10th day of January, 2024

O R D E R

A.Muhamed Mustaque, J

In this Public Interest Litigation, one significant issue we have noted is that many persons who have no semblance of interest in the property, claim for patta based on illegal occupation of the land. We noticed, in many cases, that absolutely no semblance of interest have been conferred upon such occupants to claim patta. The Land Assignment Act enables the Government to assign land on a larger public interest. The larger public interest and public purpose are secured through the Rules for which the power has been conferred upon the Government to formulate the Rules. The Rules, therefore, will have to be consistent with the objective of the Land Assignment Act. The Government framed one of such Rules in the year 1964 as "Kerala Land Assignment Rules, 1964".

2. Rule 4 of the Kerala Land Assignment Rules states that the purpose for land may be assigned, which includes personal cultivation, house-sites and beneficial enjoyment of adjoining registered holdings.

3. Rule 5 of the Kerala Land Assignment Rules,

..2..

1964 state about the maximum limit to be assigned for cultivation. However, in the same Rule, it is seen that a person, who is holding land by encroachment, which is not considered as objectionable, is also entitled for assignment of land. Originally, as on 1964 such occupant of land is entitled for one Acre of land and thereafter, the Rule was amended and entitlement of land was reduced to 50 cents in non hilly areas and again it was amended to one Acre.

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

..3..

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 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.

W.P (C) No.1801 of 2010

..4..

However, this order will not operate for issuance of pata 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.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

SHOBA ANNAMMA EAPEN, JUDGE

PR

