

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN
&
THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

Friday, the 12th day of September 2025 / 21st Bhadra, 1947
WP(C) NO. 23741 OF 2024(S)

PETITIONERS:

1. SUBBAYYAN T.R., AGED 52 YEARS, S/O. RAJAN, PRESIDENT, PARAMBARAGATHA ULNADAN MATSYATHOZHILALI AVAKASA SAMRAKSHANA SAMITHI, REGISTRATION NO. EKM/TC/543/2017, MALIACKAL HOUSE, MOOLAMPILLY, ERNAKULAM DISTRICT, KERALA – 682027; RESIDING AT NIKARTHIL HOUSE, THANTHONITHURUTHU, MULAVUKAD P.O., KOCHI, ERNAKULAM, PIN - 682504
2. DALVI STANLY DSILVA @ STANLY DSILVA, AGED 44 YEARS, S/O. AUGUSTINE DILLVA, CHETTIVALAPPIL HOUSE, MOOLAMPILLY, KADAMAKKUDY, ERNAKULAM, PIN - 682027
3. WILSON JACOB, AGED 48 YEARS, S/O. JACOB, THOTTAKATH HOUSE, KANDANAD, KOTHAD P.O., CHITTOOR, ERNAKULAM DISTRICT, KERALA , PIN - 682027
4. ANTONY P.L, AGED 57 YEARS, S/O. P. V. LAZER, PASHNI PARAMBIL HOUSE, CHERIYAKADAMAKKUDI, KADAMAKKUDI, CHITTOOR, ERNAKULAM DISTRICT, KERALA , PIN - 682027
5. FR. SEBASTIAN MOONUKOOTTUNKAL, AGED 58 YEARS, S/O PAILY, CHAIRMAN, 'SAVE PERIYAR ACTION COUNCIL', ARCH DIOCESE OF VERAPOLY, ST AUGUSTINE'S CHURCH, MOOLAMPILLY, ERNAKULAM, KERALA, PIN - 682027

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY SECRETARY TO FISHERIES DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, KERALA, PIN - 695001
2. THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, REPRESENTED BY ITS CHAIRMAN, OBSERVATORY HILLS, VIKAS BHAVAN P.O, THIRUVANANTHAPURAM , PIN - 695003
3. THE DEPUTY DIRECTOR OF FISHERIES, STATE OF KERALA, FISHERIES DEPARTMENT, OFFICE OF THE FISHERIES, SALIM ALI ROAD, ERNAKULAM, PIN - 682018
4. THE DISTRICT COLLECTOR, COLLECTORATE, CIVIL STATION, KAKKANADU, ERNAKULAM, PIN - 682030
5. THE KERALA STATE POLLUTION CONTROL BOARD, REPRESENTED BY ITS CHAIRPERSON, KERALA STATE POLLUTION CONTROL BOARD HEAD OFFICE, PATTOM P.O, THIRUVANANTHAPURAM, KERALA, PIN - 695004
6. THE KERALA WATER AUTHORITY, REPRESENTED BY ITS MANAGING DIRECTOR, OFFICE OF KERALA WATER AUTHORITY, VELLAYAMBALAM, THIRUVANANTHAPURAM, PIN - 695033

7. THE KERALA STATE LEGAL SERVICES AUTHORITY, REPRESENTED BY ITS MEMBER SECRETARY, OFFICE OF THE KERALA STATE LEGAL SERVICES AUTHORITY, NIYAMA SAHAYA BHAVAN, HIGH COURT COMPOUND, ERNAKULAM, KOCHI, PIN - 682031
8. THE STATION HOUSE OFFICER, MULAVUKAD POLICE STATION, MULAVUKAD, ERNAKULAM, KOCHI, KERALA, PIN - 682504
9. THE STATION HOUSE OFFICER, ELOOR POLICE STATION, ELOOR ROAD, UDYOGAMANDAL, ELOOR, ERNAKULAM, KOCHI, KERALA, PIN - 683501
10. THE STATION HOUSE OFFICER, VARAPUZHA POLICE STATION, CHETTIBHAGAM MAIN ROAD, BESIDE VILLAGE OFFICE, VARAPUZHA, KOCHI, KERALA, PIN - 682517
11. THE KERALA COASTAL ZONE MANAGEMENT AUTHORITY, REPRESENTED BY ITS MEMBER SECRETARY, OFFICE OF KERALA COASTAL ZONE MANAGEMENT AUTHORITY, THAMPANNOOR, KSRTC BUILDING 4TH FLOOR, OVERBRIDGE, THAMPANNOOR, THIRUVANTHAPURAM, KERALA, PIN - 695001
12. ELOOR MUNICIPALITY, REPRESENTED BY ITS SECRETARY, ELOOR MUNICIPALITY OFFICE, ELOOR FERRY ROAD, UDYOGAMANDAL, ELOOR, ERNAKULAM, KOCHI, KERALA, PIN - 683501
13. VARAPPUZHA GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY VARAPPUZHA GRAMA PANCHAYATH OFFICE, CHETTIBHAGAM MAIN ROAD, VARAPUZHA, KERALA, PIN - 683517
14. MULAVUKAD GRAMA PANCHAYATH, REPRESENTED BY ITS SECRETARY, OFFICE OF MULAVUKAD GRAMA PANCHAYATH, KERALESHWARAM TEMPLE ROAD, MULAVUKAD, ERNAKULAM, KERALA, PIN - 682504
15. THE SECRETARY, ELOOR MUNICIPALITY, ELOOR MUNICIPALITY OFFICE, ELOOR FERRY ROAD, UDYOGAMANDAL, ELOOR, ERNAKULAM, KOCHI, KERALA, PIN - 683501
16. THE SECRETARY, VARAPPUZHA GRAMA PANCHAYATH, VARAPPUZHA GRAMA PANCHAYATH OFFICE, CHETTIBHAGAM MAIN ROAD, VARAPUZHA, KERALA, PIN - 683517
17. THE SECRETARY, MULAVUKAD GRAMA PANCHAYATH OFFICE, KERALESHWARAM TEMPLE ROAD, MULAVUKAD, ERNAKULAM, KERALA, PIN - 682504

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

A. Direct the 3rd Respondent to disburse the interim monetary relief to the fish farmers and fishermen who are listed as the victims of 20.5.2024 incident in the proceedings pending before their office.

B. Direct the Respondents 8, 9 and 10 SHOs to Report the action taken by them in the fish kill incident on 20.5.2024

C. Direct the 5th and 11th Respondent to report the action taken as per the provisions of CRZ Notification 2011 in the fish kill incident on 20.5.2024

P.T.O.

D. Direct the Respondents No. 12 to 14 to report the action taken as per the provisions of Kerala Panchayath Raj Act and Kerala Municipality Act in the fish kill incident on 20.5.2024; during the pendency of this Writ Petition.

This petition coming again on for orders upon perusing the petition and the affidavit filed in support of WP(C), this Court's order dated 19/08/2025 and upon hearing the arguments of M/S SHERRY J. THOMAS, JOEMON ANTONY, ANTONY NILTON REMELO, RENISH RAVEENDRAN, THAMANA BAI, P.J.UNNIKRISHNAN, LIGISH XAVIER, GOKUL DEVIS, RIYAN AUGUSTINE SHAJI & AMAL M., Advocates for the petitioners, SRI. S.KANNAN, GOVERNMENT PLEADER for R1 to R4 & R8 to R10, SRI.T.NAVEEN, STANDING COUNSEL for R5, SRI.P.M.JOHNY & SRI. JUSTINE JACOB, STANDING COUNSEL for R6, SRI. PRAKASH M.P, STANDING COUNSEL for R11, SRI.T.K.AJITHKUMAR (VALATH), STANDING COUNSEL for R14 & R17 and of SRI. C.DINESH & DEPUTY SOLICITOR GENERAL OF INDIA, the court passed the following:

P.T.0



DEVAN RAMACHANDRAN & M.B.SNEHALATHA, JJ.

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Dated this the 12th day of September, 2025

O R D E R

DEVAN RAMACHANDRAN (J)

Today, the primary discussion was regarding the remediation of the "Kuzhikandam Thodu".

2. Sri.A.X.Varghese - learned counsel for the petitioners in some of these matters, made two broad submissions, namely;

a) that remediation of the "Kuzhikandam Thodu", by setting up a new Effluent Treatment Plant (ETP) as now proposed by the Government, is unnecessary.

b) that the remediation can be done by involving the 11th respondent, who have the capacity to decontaminate the area.

3. However, Sri.S.Kannan - learned Senior Government Pleader, submitted that the 11th

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respondent does not have the capacity or competence to undertake the decontamination of such large proportion; and the establishment of the ETP is imperative.

4. Sri.T.Naveen - learned Standing Counsel for the Kerala Pollution Control Board, submitted that once 75 cents of land - requisitioned from the erstwhile Hindustan Insecticides Limited (HIL) - is obtained from the Government of India, construction of the ETP will have to be done as per the Detailed Project Report, supervised by both his client and the Central Pollution Control Board. He affirmed that some amounts have already been obtained from the allegedly offending companies, including the HIL, under the "Polluter pays" principle, with contribution

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from the Kerala Pollution Control Board; and that this is now available with the latter in a deposit.

5. Sri.C.Dinesh, learned Central Government Counsel, representing the Deputy Solicitor General of India, was unable to inform the action taken by the Central Government in terms of our earlier orders and sought further time.

6. We are in a paradox now because, there can be no dispute - as is admitted by all sides - that the remediation of the "Kuzhikandom Thodu", as also the preservation of the Periyar River, is vitally important and cannot brook any delay. However, this matter has been pending for several months now, without obtaining any breakthrough.

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7. The first suggestion of Sri.A.X.Varghese, that the 11th respondent be directed to remove the deposited hazardous articles and decontaminate the "Kuzhikandam Thodu" is not something that this Court can order at this time, without further enquiry. It, however, is certainly for the Government to decide how to do it.

8. The alternative, that an ETP be constructed on the land to be provided by the Government of India, would become inevitable if the first option is found to be untenable, as has now been stated before us by Sri.S.Kannan.

9. It is thus necessary that this Court issue peremptory directions because, we see

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that our earlier orders have not made full impact;

In the afore circumstances,

a) We direct the Government of Kerala, or its competent Authority, to immediately look into the first suggestion of Sri.A.X.Varghese, that the remediation of the "Kuzhikandam Thodu" and its decontamination be done by the 11th respondent - company. A report on either that they can do so, or they cannot, will be placed before us by the next posting date. We caution that we will not allow any further delay in this.

b) Simultaneously, we direct the Government of India to take a final decision on transfer of 75 cents of land - either permanently or for the requisite period - to

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the Government of Kerala, for the purpose of construction of ETP. A decision in this regard shall be finally taken and intimated it to us by the learned DSGI by the next posting date.

c) The Central Pollution Control Board will inform this Court about their role and the manner in which they will be involved, if the ETP is to be constructed and operated. The time frame for the construction and the modality for its operation will also be informed us by them.

d) The Kerala State Pollution Control Board will disclose all the amounts in their possession, with respect to the "Kuzhikandam Thodu" - being their contribution as also the amounts collected from the defaulting

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companies; and further inform us how they propose to supervise the construction and operation of the proposed ETP, either in conjunction, or otherwise.

e) We record the submissions of Sri.T.Naveen - learned Standing Counsel for the Kerala Pollution Control Board (KPCB), that 40% of the contribution of the Central Government, under the National Clean Energy Fund has lapsed and that its revalidation will have to be decided by the said Government. We direct the learned DSGI to obtain specific instructions in this regard and ensure that all eligible amounts are made available, as and when we make further orders.

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On the issue of "Kuzhikandam Thodu", this matter will stand adjourned to 6.10.2025; however, for us to consider the other aspects of the matter, including the report filed by the learned Government Pleader, we order that this matter be listed on 16.09.2025.

Sd/-

DEVAN RAMACHANDRAN
JUDGE



Sd/-

M.B.SNEHALATHA
JUDGE

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