



2024:KER:35413

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 28TH DAY OF MAY 2024 / 7TH JYAISHTA, 1946

WP(C) NO. 10978 OF 2024

PETITIONERS:

- 1 MS.KIRAN SIJU
AGED 20 YEARS
D/O. SIJUMON FRANCIS, RESIDING AT MATTATHIL HOUSE,
NJAYAPPALLY P.O., CHELAD, KUTTAMPUZHA VILLAGE,
ERNAKULAM, PIN - 686681
- 2 MR.SIJUMON FRANCIS
AGED 52 YEARS
S/O. FRANCIS JACOB, RESIDING AT MATTATHIL HOUSE,
NJAYAPPALLY P.O., CHELAD, KUTTAMPUZHA VILLAGE,
ERNAKULAM., PIN - 686681
- 3 MR.BABIN JAMES
AGED 36 YEARS
S/O. JAMES JOSEPH, RESIDING AT VAYALUNKAL HOUSE,
EZHUKUMVAYAL P.O., NEDUMKANDAM, KALKOONTHAL VILLAGE,
UDUMBANCHOLA, IDUKKI., PIN - 685553
- 4 MR.MEERAN,
S/O.PAREETH, AGED 45 YEARS
RESIDING AT KEEDATHUMKUDIYIL HOUSE, VALARA P.O.,
10TH MILE, ADIMALI, MANNAMKANDAM VILLAGE,
DEVIKULAM, IDUKKI, PIN - 685561
BY ADVS.
BIJO FRANCIS
JOSE KURIAKOSE (VILANGATTIL)
LUIZ GODWIN D COUTH

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695001
- 2 PUBLIC WORKS DEPARTMENT
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
ROOM NO.377, 1ST FLOOR,
MAIN BLOCK, SECRETARIAT,
THIRUVANANTHAPURAM,
PIN - 695001



- 3 PRINCIPAL CHIEF CONSERVATOR OF FORESTS &
HEAD OF FOREST FORCE
FOREST HEADQUARTERS,VAZHUTHACAUD,
THIRUVANANTHAPURAM, PIN - 695014
- 4 DISTRICT COLLECTOR
IDUKKI DISTRICT, CIVIL STATION, PAINAVU P.O.,
KUYILIMALA, IDUKKI, PIN - 685603
- 5 DIVISIONAL FOREST OFFICER
MUNNAR DIVISION, DEVIKULAM P.O.,
IDUKKI, PIN - 685613
- 6 PROJECT DIRECTOR (SOUTH EAST)
NATIONAL HIGHWAY AUTHORITY OF INDIA,
PROJECT IMPLEMENATION UNIT,
EAST BTSRRA -125, BTS ROAD,
EDAPPALLY, KOCHI, PIN - 682024
- 7 EXECUTIVE ENGINEER (PWD)
NATIONAL HIGHWAY DIVISION, SH 1,
ARAMANA JUNCTION, THOTTUMKALPEEDIKA,
MUVATTUPUZHA, PIN - 686673
BY ADV SRI.MATHEWS K.PHILIP KALAPPURACKAL
PHILIPOSE
SRI.B.G.BIDAM CHANDRAN, SC NHAI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 28.05.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

A.Muhamed Mustaque, J.

The petitioners are the residents of Idukki. They have approached this Court seeking following reliefs;

“a) Declare that the 3rd and 5th respondents or their officers do not have any authority to interfere or prohibit the road widening work underway in NH 85, between Neriyamangalam and Valara based on Exhibit P3;

b) issue a writ of mandamus or any other appropriate writ, order or direction directing the 3rd respondent to issue necessary orders to the 5th respondent not to object the widening of the NH 49 Kochi – Madurai Road (currently part of NH 85) between Neriyamangalam and Valara to the extent of 50 feet on both sides from the centre of the existing road;

c) to dispense with the filing of a translation of vernacular documents;

d) issue such other order or orders as this honourable court may deem fit and proper in the facts and circumstances of the case.”

2. The National Highway is undertaking widening of NH 49 Kochi - Madurai its intersection linking Neriyamangalam, Valara and Adimali. It appears that the



Forest Officials objected to widening of certain portion of the area located at Neriya Mangalam to Valara stretch NH 85 claiming it to be part of forest land. The stand of the forest authority is that the road is not separated from the forest area and any development work can be undertaken only with the previous consent of the Central Government.

3. The statement was filed by the National Highway before this Court. According to them, as per the Revenue Records, Neriya Mangalam to Valara stretch NH 85 are fully shown as road puramboke from 01.04.1997 onwards and therefore, the forest department cannot raise any objection in widening road stretch. The question is whether the above stretch is forming part of forest or not. As per the Revenue Records, this stretch is shown as road puramboke. Therefore, without any correction of records, it cannot be assumed that it is a forest land. If the Forest Officials are of the view that this will have to be treated as a forest land, they have to take steps in accordance with the law. So long as the land in the revenue records is



reflected as road puramboke and non forest land, there is no requirement under law to obtain previous consent of the Central Government. The Forest Authority cannot, therefore, raise objection as to the nature of land without having an objection raised before the revenue officials at the first instance.

Therefore, we order that the forest officials shall resist from raising any objection and interfering with widening of the road by the National Highway Authorities. Ordered accordingly.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

S.MANU, JUDGE

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APPENDIX OF WP(C) 10978/2024

PETITIONER EXHIBITS

- Exhibit P1** THE TRUE COPY OF THE REPRESENTATION DATED 29-02-1996 SENT BY THE 6TH RESPONDENT TO THE CHIEF ENGINEER, NATIONAL HIGHWAYS, THIRUVANANTHAPURAM.
- Exhibit P2** THE TRUE COPY OF THE REPRESENTATION DATED 19-03-1996 SENT BY THE 6TH RESPONDENT TO THE CHIEF ENGINEER, THIRUVANANTHAPURAM
- Exhibit P3** THE TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT BEARING NUMBER GO/MS/73/1996/PWD DATED 17-05-1996
- Exhibit P4** THE TRUE COPY OF THE REPRESENTATION FILED BY THE 1ST AND 2ND PETITIONERS TO THE 4TH RESPONDENT ON 09-01-2024
- Exhibit P5** THE TRUE COPY OF THE REPRESENTATION FILED BY THE 1ST AND 2ND PETITIONERS TO THE 5TH RESPONDENT ON 10-01-2024
- Exhibit P6** THE TRUE COP OF THE REPRESENTATION FILED BY THE 1ST AND 2ND PETITIONERS TO THE DEPUTY DIRECTOR OF SURVEY, CIVIL STATION, IDUKKI DATED 09-01-2024.
- Exhibit P7** THE TRUE COPY OF THE DIRECTION ISSUED BY THE DISTRICT SURVEY SUPERINTENDENT TO THE TAHSILDAR (LAND RECORDS), IDUKKI DATED 15-02-2024.

RESPONDENT ANNEXURES

- Annexure R5(a)** True copy of the relevant pages of notification dated 02.04.1895
- Annexure R5(b)** A true copy of the govt.letter vide refno.388/C2/2015/FandWLD dated 03.09.2015