

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

FRIDAY, THE 28TH DAY OF JUNE 2024 / 7TH ASHADHA, 1946

WP(C) NO. 34974 OF 2022

PETITIONERS:

- 1 LEELAMMA P., AGED 70 YEARS, W/O. GOPI (EXPIRED), ARUN NIWAS, HOUSE NO.4/173, SACHIVOTHAMAPURAM.P.O. KURICHY, CHANGANACHERY - PIN 686 532.
- 2 AJITH GOPI, AGED-34 YEARS, S/O. SMT. LEELAMMA.P, ARUN NIWAS, HOUSE NO.4/173, SACHIVOTHAMAPURAM.P.O. KURICHY, CHANGANACHERY - PIN 686 532.
- 3 ARUN GOPI, AGED-30 YEARS, S/O. SMT. LEELAMMA.P ARUN NIWAS, HOUSE NO.4/173, SACHIVOTHAMAPURAM.P.O., KURICHY, CHANGANACHERY - PIN 686532.

BY ADVS.

G.SANTHOSH KUMAR (P).

V.R.SASSIDHARAN

FRANCO T.J.

RESPONDENTS:

- 1 THE LAND REVENUE COMMISSIONER, PUBLIC OFFICE BUILDING, MUSEUM ROAD, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, PIN -695 033.
- 2 THE DISTRICT COLLECTOR, KOTTAYAM, KANJHIKUZHI, CIVIL STATION.P.O., KOTTAYAM, PIN- 686 002.
- 3 THE REVENUE DIVISIONAL OFFICER (RDO), MINI CIVIL STATION, UNION CLUB ROAD, PUTHANANGADI, KOTTAYAM, PIN -686 001.
- 4 THE THAHASILDAR, TALUK OFFICE CHANGANACHERY, REVENUE TOWER, CHANGANACHERY, PIN - 686 501.
- 5 THE VILLAGE OFFICER KURICHY, KURICHY VILLAGE OFFICE, SACHIVOTHAMAPURAM.P.O. CHANGANACHERY -686 532.
- 6 THE SUPERINTENDENT, SURVEY AND LAND RECORDS DEPARTMENT, DISTRICT OFFICE, CIVIL STATION.P.O., KOTTAYAM -PIN 686 002.
- 7 KURICHY GRAMA PANCHAYAT, REPRESENTED BY ITS SECRETARY, SACHIVOTHAMAPURAM.P.O., CHANGANACHERY - 686 532.

- 8 THE DEPUTY DIRECTOR,
SCHEDULED CASTE / SCHEDULED TRIBE DEVELOPMENT
DEPARTMENT, DISTRICT OFFICE, CIVIL STATION,
KOTTAYAM - 686 002.
- 9 LUKOSE NEELAMPEROOR,
PRESIDENT 'SEEDIAN', (NGO FOR THE CAUSE OF
SC/ST) CHINGAVANAM P.O., KOTTAYAM-686 531.
- 10 STATE OF KERALA
REPRESENTED BY PRINCIPAL SECRETARY, REVENUE
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695001
(suo motu impleaded as additional 10th respondent
in this writ petition.)
BY ADV ASWATHI SURESH

OTHER PRESENT:

SPL.GP-M K ROBIN RAJ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 28.06.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

VIJU ABRAHAM, J.

W.P(C) No.34974 of 2022

Dated this the 28th day of June, 2024

JUDGMENT

The petitioners have approached this Court seeking to quash Ext.P4 and a further direction to respondents 1 to 5 to declare the right of the petitioners over the land holding for Pattayam and issuance of order of assignment on registry.

2. The petitioners belongs to Scheduled Caste community and are residing at Ennakachira Kulam Puromboke over the last three decades. They are having the beneficial enjoyment of land holding having an extent of 3.80 Ares (9.5 cents) comprised in Block No.1, Field No. 310 of Kurichy Village, Changanachery Taluk, Kottayam District as per Proforma Possession Certificate No. 1646/97-44 issued by the 4th respondent. Petitioners further submitted that, kulam puromboke land appearing in the field No. 310, Block No.1, having total extent of 6.6 hectares had naturally got reclaimed by geographical and environmental process over the past decades. Thereafter, marginalized and landless section of the community from different areas gradually began to settle down on the above said Kulam Puromboke land and the settlers

began to agitate for the settlement rights. Responding to the said agitation, the Government has initiated action for the issuance of Pattayam and a project was chalked out by the Government for those settlers, by name **"Integrated Habitat Development Project" (IHDP)** in the year 1989. Thereafter, the SC/ST Development Department has provided funds for the construction of internal roads and storm water drainage and the project got executed through the Minor Irrigation Department.

3. Petitioners grievance is that the land is not assigned to them and the revenue authorities are still holding the above said land as 'Kulam puamboke' and taking a stand that the same cannot be assigned. An application for assignment was submitted by the petitioners and the same has been numbered as 19464/2006 by the 4th respondent. In the said circumstances, the petitioners approached this Court by filing W.P.(C) No. 4967 of 2021 which was disposed as per Ext.P2 judgment directing the 4th respondent to consider the application submitted by the petitioners which is stated to be numbered as file No.19464/2006 and finalise the proceedings within an outer limit of 6 months. The petitioners were issued with Ext.P4 order by the 4th respondent wherein it is intimated

that as per Rule 24 of the Land Assignment Rules, 1964 only after obtaining orders from the Government that the application submitted by the petitioners for assignment of the land can be considered. The Land Revenue Commissioner who is the 1st respondent herein has filed a counter affidavit stating that the District Collector, Kottayam has submitted a report to the office of the 1st respondent for obtaining permission from the Government for assignment of land by invoking Rule 24 of the Kerala Land Assignment Rules 1964. On receipt of the report, District Collector, Kottayam was directed to submit additional details and after that an additional report has been submitted by the District Collector, Kottayam before the Land Revenue Commissioner. Now what remains is that the matter has been decided by the Government, the additional 10th respondent herein.

4. To a pointed question put by the court to the learned Special Government Pleader as to whether Pattayam has been issued to other applicants after following the said procedure, the learned Special Government Pleader upon instructions submitted that Pattayam has been issued to 56 families and the same has been done after obtaining special permission from the Government.

In view of the above facts and circumstances and taking into consideration the fact that the matter is now pending consideration before the Government, the above writ petition is disposed as follows:-

i. The 1st respondent shall forward the report of the District Collector, along with his views to the additional 10th respondent within a period of one month from the date of receipt of a copy of this judgment.

ii. The additional 10th respondent shall take a decision on the request made by the District Collector and the 1st respondent for issuance of permission as per Rule 24 of the Land Assignment Rules 1964, within an outer limit of two months thereafter.

iii. Subject to the orders passed by the additional 10th respondent as directed above the 4th respondent shall finalise the application submitted by the petitioners which is numbered as 19464/2006, within a further period of 2 months thereafter.

**Sd/-
VIJU ABRAHAM
JUDGE**

Anu

APPENDIX OF WP(C) 34974/2022**PETITIONERS EXHIBITS**

Exhibit P1	TRUE COPY OF THE RELEVANT LAND SURVEY SKETCH OF ENNAKKACHIRA KULUM PURAMBOKE LAND COMPRISED IN FIELD NO.310, BLOCK NO.1 OF KURICHY VILLAGE, CHANGANACHERY TALUK, KOTTAYAM DISTRICT DATED NIL.
Exhibit P2	TRUE COPY OF THE JUDGMENT OF THE HON'BLE COURT IN WP(C) NO.4967/2021 DATED 07-10-2021.
Exhibit P3	TRUE COPY OF THE PROCEEDINGS NO. B1/3261/2006 DATED 23-04-2015 OF THE 4TH RESPONDENT.
Exhibit P4	TRUE COPY OF THE PROCEEDING NO.B1-3261/2006 DATED 02-04-2022 OF THE 4TH RESPONDENT ALONG WITH THE MEMO FILED BY THE G.P. IN CONTEMPT CASE (CIVIL) NO.1617/2022.
Exhibit P5	TRUE COPY OF THE JUDGMENT DATED 30-09-2022 IN CON.CASE (C) NO.1617/2022.
Exhibit P6	TRUE COPY OF THE RELEVANT EXTRACT OF THE PATTAYAM GRANTED TO BERNARD MUTTATHUKADAVIL DATED NIL.
Exhibit P7	A TRUE COPY OF THE JUDGMENT DATED 17/10/2013 IN W.P. (C) NO.23251 OF 2013 OF THIS HON'BLE COURT.
Exhibit P8	TRUE COPY OF A SKETCH OF THE LAND UNDER THE BENEFICIAL ENJOYMENT OF THE PETITIONERS.
Exhibit P9	TRUE COPY OF THE LETTER NO.B1-3779/21 DATED 02-07-2021 OF THE 4TH RESPONDENT.
Exhibit P10	PHOTOGRAPH SHOWING THE RESIDENCE OF THE PETITIONERS AND ITS SURROUNDING.
Exhibit P11	The true copy of the certificate No.436/2023 dated 14-11-2023 of the 6th Respondent.
Exhibit P12	True copy of the sketch modified by the petitioners.

Exhibit P13 Photographs showing the internal roads set out during the re-survey and subsequently developed in front side and left side of the petitioners' residence.

Exhibit P14 True copy of the survey sketch.

RESPONDENTS EXHIBITS

EXHIBIT R1 (a) TRUE COPY OF THE SURVEY SKETCH SHOWING RESIDENTIAL AREA IN RE-SURVEY NO.310/1 IN BLOCK NO.1 OF KURICHY VILLAGE.

EXHIBIT R1 (b) TRUE COPY OF THE SURVEY SKETCH SHOWING KULAM PURAMBOKE, PANCHAYATH GROUND, PROPERTY IN POSSESSION OF THE PETITIONERS, ETC IN RE-SURVEY NO.310/1 IN BLOCK NO.1 OF KURICHY VILLAGE.