

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Presents:

The Honorable the Chief Justice Mrs. K. Usha

and

The Honorable Mr. Justice, Kurian Joseph

Thursday, the 31<sup>st</sup> day of May 2001/10<sup>th</sup> Jyaishta 1923

C.M.P. NO.61511/2000 IN O.P.NO.36087/2000

PETITIONAER/PETITIONER:-

Niyamavedi, rep by its Member Adv Nisha R, D/O Rajappan, residing at Lakshmi, Ambalamedu P.o,Ernakulam District.

-Vs-

RESPONDENTS/RESPONDENTS:

1. State of Kerala, rep.by Chief Secretary, Secretariate, Trivandrum
2. Union of India, rep. by its Secretary, Ministry of Environment & Forests, New Delhi.
3. Chief Conservator (Central) Ministry of Environments & Forests, Southern Regional Office Bangalore.
4. Secretary, Forest Department, Kerala State
5. Principle Chief Conservator of Forests, Trivandrum
6. Principle Chief Conservator of Forests Development & Forests, Thiruvananthapuram.
7. Chief Conservator of Forest, Kerala, Forestry Project, Thiruvananthapuram.

Petition praying that in the circumstances stated in the affidavit filed along with the O.P. the High Court Be pleased to stay the felling and removal of trees,distruction of under growth in the name weeding and planting and to stop distruction of shoal vegetation and grass land eco-system throughout the natural forest, Highranges, idukki, District.

This Petition again coming on for orders upon perusing the petition and the affidavit filed in support of O P.and this Court's Ordered dated 23-3-2001 and upon hearing the arguments of Mr.,A.X.Vargese, Advocate for the Petitioner Government Pleader for Respondents 1,4,5,6,&7 Advocate A Sudhi Vasudevan for Respondent 2, and Advocate C. Rajendran, Additional Central government Standing Counsel, the Court passed the following

**ORDER**

**Usha C.J**

On 22-12-2000 this court had passed an order of interim stay felling and removing of trees, destruction of under growth in the names of weeding and planting and to top destruction of Shola Vegetation an grass land eco-system throughout the natural Hinghranges in Idukki District for a period of one month. The said order was thereafter extended from time to time. We had already directed the learned Government pleader appearing on behalf of respondents: and: 7 to file a statement as to the procedure followed by the authorities in identifying the area for weeding and also to identify the weeds of a particular area within one month. Pursuant thereto a statement had been filed in 22-1-2001 on behalf of the 7<sup>th</sup> respondent which was followed by an additional affidavit by the 7<sup>th</sup> respondent filed on 26-3-2001 giving the details of the Kerala Forestry Project undertaken for the development of the forestry sector in Kerala. Thereafter we passed an order allowing C,M,P,NO9975 of 2001 on 11-4-2001, where the request was to appoint Advocate Commissioners to inspect and report the points mentioned in paragraph 4 of the affidavit for a just and reasonable conclusion of the matter pending disposal of the original petition. The Order dated 11-4-2001 was modified on 21-5-2001 to the effect that the report that has to be submitted by the Commissioners is in respect of 11 points referred in paragraph 6 of the affidavit and not the matters referred in paragraph 4 of the affidavit.

2. Thereafter a preliminary report has been filed by the above commissioners on 30-5-2001. The relevant portion of the said report reads as follows.

2. It has been brought to our notice by the forest officials that after finding that there are several lapses and irregularities steps were taken against the delinquent officers. Reserves were conducted the new sapling were planted. These require weeding. It was found by us that the recently planted sapling were not properly maintained by weeding. When questioned as to why the weeding was not done, the Forest Officials have stated that due to the interim order of this Hon'ble Court in CMP No 61511/2000 Dated 22<sup>nd</sup> December, 2000 they could not carry out the weeding operations.
3. We have also noticed that the Hindustan News Print Ltd., has collected about 12 lakhs seedlings of Acacia for the purpose of planting in the property allotted to them at Kulamavu. It is necessary to plant the seedlings in June itself which is the most suitable time for planting. It is also necessary to carry out the weeding operation before commencement of planting. By carrying out the weeding operation before commencement of planting. By carrying out the weeding operation no harm will be caused to the land, since even now in the areas earmarked for plantations, only grass is seen. They have also not planted any Acacia in view of the interim order referred to above.
4. We are of the opinion that unless proper weeding is done, the already planted sapling in the Mullakkanam Chakkimali, Meenmitty and the sapling collected in Hindustan Newsprint Ltd, will be destroyed.

3. The learned Counsel appearing on behalf of the Petitioner sought time to file objection to the commission's report. We do not think it is necessary to invite an objection to the Commissioner's report. The Commissioner's are independent lawyers appointed by this court as suggested by the Petitioner's. We therefore accept their interim report and permit the Forest Officials to do the required weeding to protect the recently planned saplings. We also permit the additional 8<sup>th</sup> respondent, Hindustan News Print Limited to go on planting of the sapling collected by them and as referred in the report of the Commissioner's They can start planting in the month of June 2001 itself. They are also permitted to carry out the weeding operations before the commencement of planting. Their weeding operations required for the purpose of planting shall be conducted under the guidance of the Forest Officials. Weeding may be done for the purpose of protecting the planted saplings in Mullakkanam, Chakkimali and Meenmutty.
4. The learned Government pleader points out that there are several other treatment areas both under the Kerala Forestry Project as well as the Social Forestry project, Compensatory. A forestation Project, etc. Where also weeding is required during this season. We permit the respondent to do weeding strictly for the purpose of regeneration, planting protection of the existing trees. There will be a direction to the Kerala Forest Research Institute (KFRI) to oversee the operation of weeding to ensure that nothing more than what is absolutely required to be disturbed by way of weeding. By this direction we do not direct that KFRI should send representative throughout the operation in all areas. They may at random verify the activities going on and report to this Court if the respondents are doing something more than what is required for weeding.
5. While we permit the Hindustan News Print Limited to go on with the planting of Acacia in the area set part of them we direct the KFRI to see whether the weeding operations done by the additional 8<sup>th</sup> respondent is something which is more than what is required. We also direct the KFRI to make a study as to whether in this area which is admittedly part of catchment area natural forest could be regenerated. A study report in this aspect also should be filed to this Court

Hand over the Order.

Sd/-  
K.K.USHA  
KURIAN JOSEPH