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GOVERNMENT OF KERALA

Abstract

Suits - O.P No.8836/1996-3 filed by Kuttampuzha Grama Panchayat
before Hon'ble High Court - Judgment - representation disposed of
Orders issued -

LOCAL ADMINISTRATOR (C) DEPARTMENT

G.O.(Rt)No.3816/97/LAD. Dated, Thiruvananthapuram, 18-11-1997

Read:- 1. Judgment dated 10.6.97 of Hon'ble High Court in O.P.No. 3836/1996-3 filed by Kuttanapusha Grama Panchayat.

2. Mr.No.A1-185/97 dt.24.9.97 from the Secretary, Kuttanpuzha Panchayat.

O R D E R

In the judgment read first above, the Hon'ble High Court has directed the Govt. to dispose of Ext.P2. representation submitted by the Secretary, Kuttaupuzha Grama Panchayat before the Govt. after hearing the petitioner Panchayat and if necessary the authorities of Forest Department. In Ext.P2 representation the Secretary, Kuttaupuzha Panchayat has stated that the Panchayat with an area of 541 Sq. situate in the Malayattoor Forest Division. The rivers viz. Kuttaupuzha, Edamalayar, Pooyankutty and Kandamparunadi flow through the Panchayat. According to the Panchayat one bank each of the above rivers is reserve forests, the other bank being revenue land. The Forest authorities prevent the contractor authorised by the Panchayat from drawing sand from the rivers within the jurisdiction of the Panchayat. The Panchayat claims that it has absolute right to draw sand from the rivers from the other side which does not belong to the Forest Department. The Panchayat has requested Govt. to settle the issue with the Forest Department.

2. The Additional Secretary Local Administration Department heard the Secretary, Kuttaupuzha Grama Panchayat, Forest Range Officer Kuttaupuzha on 3.11.97. The argument of the Panchayat is that as per section 218 of the K.P.R. Act 1994 all the land including rivers come under their jurisdiction vest in Panchayat. Since the rivers are flowing through the Panchayat, it is entitled to draw sand from the rivers.

3. The contention of the Forest Range Officer, Kuttanpuzha is that the Panchayat has not right over the rivers which flow through Reserve Forest area, that removal of sand from the rivers flowing through the Reserve Forest is in violation of the Forest Conservation Act 1980 & that a Panchayat can auction drawal of sand only from the portion of rivers flowing outside the Reserve Forest Area.

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4. Government have examined the case in detail. It is seen that there is no provision in the KFR Act 1994 regarding vesting of forest land in the Panchayat. Also there is no provision for notified forest area to be used for the activities as desired by the Panchayat. Under the Forest Conservancy Act, the Panchayat has no right over the portion of the rivers in the Reserve Forest area. The Kuttaapuzha Panchayat can therefore sanction drawal of sand only from the portion of the rivers, if any, flowing outside the Reserved Forest Area. The Ext. P2 representation is disposed of accordingly.

(By Order of the Governor)

Sd/-

for Adml. Secretary to Government.

Endt. on PU(3)30219/96 dtd. 13.2.98(L.Dis).

Copy forwarded to all Conservator of Forests for information and necessary action.

Sd/-

for Principal Chief Conservator of Forests

Endt. on G1.2961 /98 dt.10.3.98.

Copy forwarded to all Officers upto Range Officer's and Station for information.

D/20 Kothamangalam / Conservator of Forests (HAC)
Kottayam.

P/11.3.

Endt on G2-4094/96/253-98

Copy forwarded to all RO for information and attention.

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DFO 25/2/98

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