

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE ACTING CHIEF JUSTICE MR.ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 5TH DAY OF FEBRUARY 2018 / 16TH MAGHA, 1939

WP(C).No. 8442 of 2010

PETITIONER(S)

- 1 M.T.THOMAS, MATTAMUNDAYIL HOUSE,
MUTTAMKADAV.P.O., PARAPPA, KASARAGOD DISTRICT.
- 2 T.S.MATHEW,
THARAMANGALAM, MUTTOMKADV. P.O., PARAPPA, KASARAGOD.
- 3 P.C.THOMAS, PATHIL HOUSE,
MUTTOMKADV. P.O., PARAPPA, KASARAGOD.
- 4 BIJU.P.P., PALLIPADATH,
MUTTOMKADAV P.O., PARAPPA.
- 5 TOM THOMAS, NADAKKAL,
MUTTOMKADAVU P.O., PARAPPA, KASARAGOD.
- 6 SINDHU LOHITHADAS,
AMARAVATHI, AKALLOOR P.O., PALAKKAD.
- 7 KARSHAKA SANGHATANA AYKYAVEDI,
(FARMERS ORGANISATIONS' FRONT), HAVING ITS HEAD, OFFICE AT
NO.67, KUMARANASAN NAGAR, KADAVANTHARA, ERNAKULAM,
REP.BY ITS GENERAL SECRETARY, JOSE CHEMBARY.

BY ADVS.SRI.P.C.THOMAS
SRI.ROJO J.THURUTHIPARA

RESPONDENT(S):

1. THE STATE OF KERALA, REP.BY ITS
PRINCIPAL SECRETARY, MINISTRY OF FOREST AND WILD LIFE,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE PRINCIPAL CHIEF CONSERVATOR OF
FORESTS, SECRETARIAT, THIRUVANANTHAPURAM.
3. THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE, KANNUR DIVISION, KANNUR-12.

4. THE DISTRICT COLLECTOR,
COLLECTORATE, KASARAGOD DISTRICT.
5. THE DIVISIONAL FOREST OFFICER,
DIVISIONAL FOREST OFFICE, PALAKKAD.

R1 TO R5 BY ADV. SRI.M.P.PRAKASH,SPL.GP FOR FOREST
R1-R5 BY ADV. SRI.NAGARAJ NARAYANAN, SPL. G.P. FOR FOREST
BY GOVT. PLEADER SRI.SURIN GEORGE IPE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-02-2018,
A/W WPC 18046/10, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXTS

EXT.P1:- A TRUE PHOTOCOPY OF THE LETTER DATED 1.10.03 ISSUED BY THE KAZARAGOD DISTRICT PANCHAYAT PRESIDENT TO THE 1ST PETITIONER.

EXT.P2:- A TRUE PHOTOCOPY OF THE CERTIFICATE DT. 29.11.04 ISSUED BY THE KAZARAGODE DISTRICT SERICULTURE OFFICER, STATING ABOUT THE SPOILING OF THE SERICULTURE OF THE 1ST PETITIONER DUE TO THE ATTACK OF WILD ANIMALS.

EXT.P3:- A TRUE PHOTOCOPY OF THE CERTIFICATE DATED 27.12.2004 ISSUED BY THE PRINCIPAL AGRICULTURE OFFICER, KAZARAGOD REGARDING SPOILING OF SERICULTURE OF THE 1ST PETITIONER.

EXT.P4:- A TRUE PHOTOCOPY OF THE COMMUNICATION DT 11.1.05 ISSUED BY THE MINISTER FOR FOREST AND WILD LIFE REGARDING THE RECEIPT OF THE COMPLAINT OF THE 1ST PETITIONER.

EXT.P5:- A TRUE PHOTOCOPY OF THE COMMUNICATION DATED 29.8.06 ISSUED BY THE 3RD RESPONDENT TO THE FRO, KANJANGAD DIRECTING HIM TO SUBMIT ESTIMATE FOR FIXING SOLAR ENERGY FENCING.

EXT.P6:- A TRUE PHOTOCOPY OF THE REPLY DT. 11.4.07 OF THE 3RD RESPONDENT STATING THAT COMPENSATION CANNOT BE GRANTED FOR THE ATTACK OF WILD PIG.

EXT.P7:- A TRUE PHOTOCOPY OF THE GO (RT) NO.283/2009/F&WLD DT. 16.6.09, WHICH STATES THAT EVEN IF THE ATTACK IS BY WILD PIG COMPENSATION CAN BE GRANTED.

EXT.P8:- A TRUE PHOTOCOPY OF THE RELEVANT PORTION OF THE MALAYALA MANORAMA NEWSPAPER DT. 11.9.09 REGARDING THE NEWS OF ATTACK OF ELEPHANTS IN THE 1ST PETITIONER'S PROPERTY.

EXT.P9:- A TRUE PHOTOCOPY OF THE CERTIFICATE DT. 1.10.09 ISSUED BY THE VILLAGE OFFICER, MALOM STATING THE LOSS DUE TO THE ATTACK.

EXT.P10:- A TRUE PHOTOCOPY OF THE RELEVANT PAGE OF CATALOGUE OF NATIONAL INSURANCE CO. LTD., REGARDING SCALE OF COMPENSATION PAYABLE TO LOSS OF IMMATURE RUBBER PLANTS.

EXT.P11:- A TRUE PHOTOCOPY OF THE PORTION OF THE MALAYALA MANORAMA NEWSPAPER DT. 13.10.09 SHOWING THE VISIT OF THE DISTRICT-COLLECTOR KAZARAGOD IN THE 1ST PETITIONER'S PROPERTY.

EXT.P12:- A TRUE PHOTOCOPY OF THE APPLICATION DT. 19.9.09 FOR THE COMPENSATION SUBMITTED BEFORE THE 3RD RESPONDENT DFO.

EXT.P13:- A TRUE PHOTOCOPY OF THE APPLICATION DT. 28.10.09 FOR COMPENSATION SUBMITTED BY THE PETITIONER'S 2 TO 5.

EXT.P14:- A TRUE PHOTOCOPY OF THE CERTIFICATE DT. 10.03.10 ISSUED BY THE AGRICULTURE OFFICER REGARDING THE ATTACK OF WILD ANIMALS IN THE PROPERTY OF THE PETITIONERS 2 AND 3.

EXT.P15:- A TRUE PHOTOCOPY OF THE REPRESENTATION DT. 3.3.10 SUBMITTED BEFORE THE 5TH RESPONDENT BY THE 6TH PETITIONER REGARDING THE ATTACK OF WILD PIG IN HER PROPERTY.

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**ANTONY DOMINIC, Ag. C.J.
&
DAMA SESHADRI NAIDU, J.**

W. P. (C) Nos.8442 and 18046 of 2010

Dated this the 5th day of February, 2018

JUDGMENT

Antony Dominic, Ag. C.J.

These are writ petitions filed by the agriculturists who own or occupy lands in the close proximity of reserve forests. They say that wild animals from the forests stray into their agricultural farms and cause extensive damage to the agricultural crops. Quite often, people are also attacked and injured. It is in this background, these writ petitions are filed seeking a direction to the respondents to take urgent and effective steps to provide solar energy fencing separating the agricultural lands and forest lands, and thereby to protect the farmers and the agricultural lands of the petitioners from attack of wild animals. They also seek a direction requiring the State to revise the compensation as

provided in Kerala Rules for Payment of Compensation to Victims of Attack by Wild Animals, 1980, [for short, "the Rules"], as amended by the Government Order dated 16.06.2009. They also seek consideration of the representations claiming compensation in addition to the aforesaid reliefs.

2. We heard the learned counsel appearing for the petitioners, learned Assistant Solicitor General and the learned Government Pleader appearing for the official respondents.

3. At the outset, we may take note of the fact that these writ petitions were filed in the year 2010. From the affidavit filed by the second respondent in November, 2016, we find that, by that time, the State had made solar power fencing covering 1501 kms. and had also constructed elephant proof trenches, covering 584 kms. It is also stated

that stone pitched trenches were constructed in 3.5 kms. and elephant proof walls were constructed in 35 kms. It is also stated that Kayyalas have been constructed in 259 kms. and bio-fencing has been constructed in 43 kms. They further say that, in Kannur District alone, 112.506 kms. of solar fencing is provided and construction of 9.25 kms. of elephant proof wall is in progress. According to them, watchers are also engaged to drive back wild animals straying into human settlements and rapid response teams have also been formed at various locations where man-animal conflict is an acute issue. GO(MS) No.04/2011/F&WLD dated 01.02.2011 is produced to show that a committee was constituted to go into the issue of man-animal conflict and that on the basis of the recommendations of the committee, farmers have been permitted to hunt/shoot crop-raiding wild boar subject to

certain conditions. It is also stated that Rule 2(a) of the Rules has been suitably amended to include wild boar also.

4. As regards the issue of compensation, it is stated that field level officers have taken necessary steps at local level to address issues and that compensation for loss due to wildlife attack is paid as an exgratia. The Government have also referred to various orders issued by it revising compensation for injuries, permanent incapacitation, loss of cattle, crops, damage to huts etc. Compensation payable for loss of human life and loss of human life on account of snake bite outside forest also have been revised. In sum and substance, attempt of the State is to impress upon this Court that the State is alive to the issue raised by the petitioners and proper remedial measures have already been taken.

5. Having considered the issue, while we appreciate

the stand taken by the State, we must only remind the State that human life is precious and crops raised by farmers is also dear and valuable to them. When the farmers are attacked and crops are damaged by wild animals straying into their farms, it is incumbent on the State to take remedial action, as is necessary, to prevent such straying of wild animals and also to suitably compensate the farmers when damage is caused. This, the State shall do.

6. We find that it is the specific contention of the State that certain applications made by the petitioners in W.P.(C) No.18046 of 2010 covering the period 2003-2009 were belated and therefore, could not be considered. However, the petitioners say that subsequent attack led them to file Exts.P25 and 26 and that orders thereon have not been passed till date.

7. Taking note of this complaint, we direct that

Exts.P25 and 26 be considered in accordance with law and orders thereon be passed. This shall be done, at any rate, within three months from the date of receipt of a copy of this judgment.

The writ petitions are accordingly disposed of.

Sd/-
**ANTONY DOMINIC
ACTING CHIEF JUSTICE**

Sd/-
**DAMA SESHADRI NAIDU
JUDGE**

kns/-

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P.S. TO JUDGE