



C.R.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

TUESDAY, THE 26<sup>TH</sup> DAY OF MARCH 2024 / 6TH CHAITHRA, 1946

WP (C) NO. 6593 OF 2024

PETITIONER:

AYNIKKAL PLANTATIONS PVT. LTD, BUILDING NO.121,  
KUZHOOR PANCHAYATH, KUNDOOR P.O, THRISSUR  
REPRESENTED BY ITS MANAGING DIRECTOR, - STANLY  
A. ANTONY, PIN - 680 734

BY ADVS.

K.I.MAYANKUTTY MATHER

T.K.SREEKALA

ATHIRA PRASAD

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY ITS CHIEF  
SECRETARY, REVENUE DIVISION, GOVERNMENT  
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001
- 2 DISTRICT COLLECTOR, OFFICE OF THE DISTRICT  
COLLECTOR IDUKKI, CIVIL STATION P.O, KYILIMALA,  
IDUKKI, PIN - 685 602
- 3 THE REVENUE DIVISIONAL OFFICER, REVENUE  
DIVISIONAL OFFICE, DEVIKULAM P.O., IDUKKI, PIN  
- 685 613
- 4 TAHASILDAR, DEVIKULAM TALUK OFFICE, DEVIKULAM  
P.O, IDUKKI, PIN - 685 613
- 5 THE VILLAGE OFFICER, ANAVIRATTI VILLAGE OFFICE,  
KALLAR P.O, VATTIYAR, IDUKKI, PIN - 685 561
- 6 PALLIVASAL GRAMA PANCHAYATH, REPRESENTED BY ITS



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SECRETARY, MUNNAR P.O, IDUKKI, PIN - 685 561

BY ADV JOICE GEORGE

SRI.JAFFER KHAN SR GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 19.03.2024, THE COURT ON 26.03.2024 DELIVERED THE  
FOLLOWING:



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**C.R**

**A.MUHAMED MUSTAQUE  
&  
SHOBA ANNAMMA EAPEN, JJ.**

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**Dated this the 26<sup>th</sup> day of March, 2024**

## **J U D G M E N T**

### **A. Muhamed Mustaque, J.**

The petitioner claims ownership of the property comprised in Re.Sy. No.235/1-1(Old No.343/1) of Anaviratti Village, Idukki. There is a small building in the property. It is a cardamom land. The petitioner wants to reconstruct the building. The proposed construction is having a total plinth area of 2915.63 Sq. Mts. It is proposed as a residential building. The Tahsildar, Devikulam considered the request for NOC in the light of the direction issued by this Court and rejected the same.

2. As seen from the impugned order, the Tahsildar



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placed reliance on Rule 34 of Cardamom Rules, 1935. However, these Rules have been repealed by virtue of Section 9 of the Travancore Cochin Government Land Assignment Act, 1950. The question to be decided is the law applicable for construction in the cardamom land. The learned Special Government Pleader submits that Section 8 of Kerala Government Land Assignment Act, 1960 would continue to operate to govern any land which was assigned under the repealed rules. Section 8 reads thus:

***“Assignment to take effect with restrictions, conditions, etc. according to their tenor. - All the provisions, restrictions, conditions and limitations contained in any Pattah or other document evidencing the assignment of Government land or of any interest therein shall be valid and take effect according to their tenor, notwithstanding any law for the time being in force or any custom or contract to the contrary.”***

3. We also note that a rigour has been imposed under Kerala Land Utilisation Order 1967 (for short “KLUO”). Clause 2b of KLUO defines food crops, which includes cardamom. Clause 6 of KLUO says that no holder of the land shall utilise such land for the cultivation of any food crop or any other purpose except under the written permission given by the Collector.



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4. A Division Bench of this Court W.A No.2436 of 2016 approved the judgment in ***Raphy John and Other v. Land Revenue Commissioner [2022 KHC 3494]*** and held that a land given for specific purpose cannot be utilised for other purpose defeating the objectives of patta. There is no dispute to the fact that the land in question is a cardamom land. We find that rigour under Section 8 would continue to operate notwithstanding repeal of Cardamom Rules. The land given for cultivation of cardamom under the Cardamom Rules can only be utilised for the purpose of cultivating cardamom. The rigour of Clause 6 of KLUO also would apply in respect of utilisation of land.

5. In the light of above, we are of the view that cardamom plantation will have to be retained as cardamom plantation. Any violation would entail in resumption of the land by the Government. However, nothing prevents the District Collector from permitting the construction of any building which may be required for maintaining the cardamom plantation. We also note that there was small building in the land held by the petitioner. Therefore, we



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direct the District Collector, Idukki to consider the request for NOC. While considering the NOC, the District Collector shall specify the plinth area for construction.

The writ petition is disposed of as above.

**Sd/-**

**A.MUHAMED MUSTAQUE,  
JUDGE**

**Sd/-**

**SHOBA ANNAMMA EAPEN  
JUDGE**

**PR**



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APPENDIX OF WP(C) 6593/2024

## PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE SALE DEED  
NO.3597/2005 DATED 18.11.2005 OF  
DEVIKULAM SUB REGISTRY
- Exhibit P1(a) TRUE COPY OF THE RECTIFICATION DEED  
NO.2399/2010 DATED 23.09.2010 OF  
DEVIKULAM SUB REGISTRY OFFICE
- Exhibit P1(b) TRUE COPY OF THE LATEST LAND TAX  
RECEIPT IN RESPECT OF THE PROPERTY 1  
HECTARE 70.29 ARES DATED 13.05.2025
- Exhibit P1(c) TRUE COPY OF THE BUILDING OWNERSHIP  
CERTIFICATE ISSUED BY PALLIVASAL GRAMA  
PANCHAYATH IN RESPECT OF THE  
PETITIONER BUILDING DATED 13.01.2023
- Exhibit P2 TRUE COPY OF THE STOP MEMO SERVED BY  
THE 5TH RESPONDENT TO THE MANAGING  
DIRECTOR OF THE PETITIONER - COMPANY  
DATED 13.03.2023
- Exhibit P3 TRUE COPY OF THE REPORT DATED  
13.3.2023 DRAWN BY THE 5TH RESPONDENT
- Exhibit P4 TRUE COPY OF THE INTERIM ORDER DATED  
27.06.2023 IN WP(C) NO. 1801/2010 OF  
THIS HON'BLE COURT.
- Exhibit P5 TRUE COPY OF THE PROCEEDINGS OF THE  
6TH RESPONDENT DATED 6.3.2023
- Exhibit P6 TRUE COPY OF THE DRAWING DISCLOSING  
THE RENOVATION OF THE BUILDING TO A  
TWO STORIED ONE SUBMITTED TO THE 4TH  
RESPONDENT



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Exhibit P7 TRUE COPY OF THE REPORT DATED  
26.5.2023 DRAWN BY THE 5TH RESPONDENT

Exhibit P8 TRUE COPY OF THE JUDGMENT OF THIS  
HON'BLE COURT 26.09.2023 IN W.P.(C)  
NO.31275/2023

Exhibit P9 TRUE COPY OF THE PROCEEDINGS OF THE  
4TH RESPONDENT DATED 09.11.2023

Exhibit P10 TRUE COPY OF THE PROCEEDINGS OF THE  
PRINCIPAL SECRETARY, REVENUE  
DEPARTMENT DATED 19.11.2019

Exhibit P11 TRUE COPY OF DOCUMENT NO. 1282/1971  
DATED 14.09.1971 OF DEVIKULAM SRO

Exhibit P12 TRUE COPY OF THE STOP MEMO DATED  
05.02.2024 ISSUED BY THE 5TH  
RESPONDENT.

Exhibit P13 TRUE COPY OF THE JUDGMENT IN W.P.(C)  
NO.25721/2021 OF THIS HON'BLE COURT  
DATED 24.01.2022

RESPONDENT EXHIBITS

EXHIBIT R4(a) True copy of the relevant pages of the  
Basic Tax Register pertaining to the  
property comprised in Re-survey No.235

EXHIBIT R4(b) Copy of the relevant pages of the  
Assignment Register pertaining to the  
land comprised in old Survey No.343

EXHIBIT R4(c) Copy of the photographs pertaining to  
the construction effected by the  
petitioner

PETITIONER EXHIBITS





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Ext.P14 True copy of Doc. No. 107/1995 dated  
16.1.1995 of Devikulam SRO

Ext.P15 True copy of the property tax receipt  
for the period - 2022-2023 dated  
13.1.2023