

(2012) 03 KL CK 0088

In the High Court Of Kerala

Case No : Writ Petition (C) No. 4409 of 2012 (A)

Madhusoodhanan, Divakaran K.P., Mathew V.A. and Saji
Cherian

APPELLANT

Vs

The Divisional Forest Officer, Office of The Divisional Forest,
Kannur Division, Kannur District-670001, The Range Officer,
Kottiyam Range, Kannur Division, Kannur District-670001
and The Range Officer, Flying Squad (Forest), Vigilance Wing,
Thalasseri Kannur District, PIN-670001.

RESPONDENT

Date of Decision : 01-03-2012

Acts Referred:

Citation : (2012) 03 KL CK 0088

Hon'ble Judges : S. Siri Jagan, J

Bench : Single Bench

Advocate : Vinod J. Dev and Sri. Pramod J. Dev, for the Appellant; James Kurian, Government Pleader, for the Respondent

Judgement

S. Siri Jagan, J.—Petitioners 1 and 2 are owners of 0.5422 hectares of land in survey No. 2/C of Kolayad Village, Thalassery Taluk in Kannur district, obtained by them as per Ext.P1 gift deed. That property is situated inside a reserve forest area. Petitioners 1 and 2 entered into a contract with petitioners 3 and 4 for sale of the rubber trees standing in the property. For transporting the timber from the rubber trees, the petitioners have no access to the outer world except through a Forest road, for using which, permission from respondents 1 to 3 is necessary. But the respondents are not permitting the petitioners to use that Forest road. It is under the above circumstances, the petitioners have filed this writ petition seeking the following reliefs:

- a) call for the records leading to the passing of Ext.P10 and quash the same by issuing a writ of certiorari or any other appropriate writ;
- b) issue a writ of mandamus or any other appropriate writ order or directions, directing the respondents to grant permission to transport rubber trees from the

properties of petitioners 1 and 2 by using the "coop road" for nearby 1= kilometers to reach the main road.

2. I directed the learned Government Pleader to get instructions in the matter. The learned Government Pleader submits that in view of large scale theft of forest trees, the respondents are not in a position to permit the petitioners to use the road, since the petitioners are likely to misuse such permission.

3. I have considered the rival contentions in detail.

4. It is not disputed before me that the property belongs to petitioners 1 and 2 and that the same is cultivated with rubber. It is also not disputed before me that the only access the property has, to the outer world is through the Forest road under the control of the respondents. If that be so, I do not find any justification in the respondents denying permission to the petitioners to transport the rubber trees cut down by the petitioners. Therefore, the writ petition is disposed of with the following directions:

5. The petitioners shall file a request in this regard before the 1st respondent with specific dates, on which, the petitioners want to use the Forest road for transport of the rubber trees from the property of petitioners 1 and 2 to outside the Forest. The petitioners shall also furnish the details of the vehicles proposed to be used for such transport in the request. On receipt of that request, the 1st respondent shall grant permission to the petitioners to use the Forest road for transporting timber from the rubber trees through the Forest road. It would be open to the 1st respondent to get the vehicles inspected at the time of loading the rubber trees as well as at the time of transport as they please. The petitioners shall also comply with the conditions prescribed by the 1st respondent for effectively supervising such transport to ensure that the State does not suffer any loss on account of such transport.