

(2010) 09 KL CK 0035

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 26780 of 2010 (V)

Nelliampathi Hill Conservation

APPELLANT

Vs

Divisional Forest Officer and State of Kerala

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Citation : (2010) 09 KL CK 0035

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : C.K. Karunakaran, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.—Issue raised in these writ petitions are common and therefore these cases were heard together and are disposed of by this common judgment, treating WP (C) No. 26780/2010 as the leading case.

2. The petitioner herein is an assignee and is presently in possession of a plantation, which is a land on lease from Government. Ext. P1 is stated to be the deed under which the petitioner has purchased the property.

3. The Divisional Forest Officer, Nenmara issued Ext.P2 show cause notice dated 16/08/2006 calling upon the petitioner to show cause why the lease shall not be terminated and they shall not be evicted from the land in their possession. On receipt of the show cause notice, they submitted Ext.P3 reply. But however orders have not been passed in the matter or communicated to them. However, based on Ext.P4 paper report, they apprehend that steps will be taken to evict them from the estate.

4. It is also stated that the Flying Squad of the Forest Department came to the land in their possession and threatened to evict them. It is in these circumstances, the writ petition has been filed praying for a direction to the respondents not to take any action to take over the plantation until orders are passed on Ext. P2 show cause notice and communicated to them.

5. Learned Additional Advocate General appearing for the respondents submits that the writ petition is premature. According to him, orders have not been passed on Ext.P2 show cause notice considering the reply submitted by the petitioner, and the Department has not initiated any action as apprehended or alleged by the petitioner.

6. In the light of the submissions thus made by the learned Additional Advocate General, all that is required in this writ petition is to direct the Divisional Forest Officer, Nenmara, who according to the learned Additional Advocate General has been authorized to consider the issue, or such other appropriate authority as may be authorized by the Department, to consider the show cause notice in the light of the reply submitted by the petitioner, hear them and pass orders in the matter. It is directed that until orders are passed as above and communicated to the petitioner, status quo as on date in so far as the possession of the property, shall be maintained.

In the light of the above, WP (C) Nos. 26787, 26807 and 27898 of 2010 will also stand disposed of with similar directions.

These writ petitions are disposed of as above.