

(2010) 09 KL CK 0310

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 22818 of 2010 (B)

P. Kumaran and P.K. Sudheer

APPELLANT

Vs

Divisional Forest Officer, Forest Range Officer and Deputy
Ranger

RESPONDENT

Date of Decision : 06-09-2010

Acts Referred:

Preservation of Trees Act, 1986 — Section 5

Citation : (2010) 09 KL CK 0310

Hon'ble Judges : Antony Dominic, J

Bench : Single Bench

Advocate : T.M. Abdul Latheef, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.—By Exts.P1 to P4, the petitioners applied to the second respondent to grant them permit to cut and remove the trees mentioned therein. It is stated that pursuant to the applications made, Exts.P5 to P8 reports were forwarded by the third respondent to the second respondent, recommending that the applications submitted by the petitioners can be considered in the manner as mentioned therein. However, orders were not passed on the applications and, therefore, this writ petition was filed.

2. After the filing of this writ petition, Exts.P13 to P16 orders were passed by the second respondent, granting permission for cutting and removing only some of the trees in respect of which permission was sought for. In so far as the remaining trees are concerned, it is stated that permission cannot be granted for the reason that the area where the trees are situated are proposed to be notified in terms of the provisions contained in the Preservation of Trees Act, 1986. It is on receipt of Exts.P13 to P16, the petitioner has filed I.A. No. 12215/2010, seeking to amend the writ petition incorporating the prayer to quash Exts.P13 to P16 to the extent their request in its entirety has not been granted.

3. In so far as Exts.P13 to P16 are concerned, the only reason to decline the

prayer of the petitioners is the pendency of the recommendation to notify the area as per Section 5 of the Preservation of Trees Act. The second respondent has no case that any notification covering the area has been issued, but admittedly there is a proposal pending. In my view, the pendency of the proposal by itself is not a reason to decline the prayer sought for by the petitioner and, therefore, Exts.P13 to P16 to the extent the petitioner's request has been rejected due to the pendency of the proposal cannot be sustained. In that view of the matter, the request of the petitioners made in Exts.P1 to P4 to the extent it was not granted in Exts.P13 to P16 needs to be reconsidered applying the law as it stands today.

4. Therefore, this writ petition is disposed of directing the second respondent to reconsider Exts.P1 to P4 in the light of Exts.P5 to P8 and in accordance with law and in the light of the observations herein above.

Orders shall be passed, at any rate, within a period of four weeks from the date of production of a copy of this judgment.