
(2021) 01 KL CK 0232

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5728 Of 2009

Public Interest Protection Association

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 06-01-2021

Acts Referred:

Kannan Devan Hills (Resumption Of Lands) Act, 1971 — Section 3, 4, 9
Kerala Land Reforms Act, 1963 — Section 100

Citation : (2021) 01 KL CK 0232

Hon'ble Judges : S. Manikumar, CJ;Shaji P. Chaly, J

Bench : Division Bench

Advocate : P. Ramakrishnan, Surin George, B. Jayasurya, Nagaraj Narayanan

Final Decision : Dismissed

Judgement

S. Manikumar, CJ

1. The petitioner, a social service organization registered under the Travancore-Cochin Literary, Scientific, Cultural and Charitable Societies Registration Act, 1955, has filed this writ petition as a Public Interest Litigation, challenging Exhibits-P5 Government order dated 20.11.2008 issued by the 1st respondent and Exhibit-P6 proceedings of the 3rd respondent dated 05.12.2008. As per Exhibit-P5 order, Government of Kerala have ordered assignment of an extent of 1664 acres of Government land in Kannan Devan Hills, Vattavada and Keezhanthoor, to eligible persons, including Adivasis, members of Scheduled Caste and Scheduled Tribe and plantation labourers. The District Collector, Idukki, respondent No.3, as per Exhibit-P6 proceedings, included the aforesaid lands in the approved list of assignable lands.

2. Mr. P. Ramakrishnan, learned counsel for the petitioner association, contended that the assignment of lands in KDH Village is restricted to agricultural labourers and agriculturists and, that too, for agrarian purposes, in view of Section 9 of the Kannan Devan Hills (Resumption of Lands) Act, 1971 ('Act, 1971' for short).

According to the learned counsel, the lands sought to be assigned as per Exhibit-P5 Government order are not assignable lands. Exhibit-P4 is the details of the lands resumed by the State by evicting encroachers. Exhibit-P5 is purported to be issued for the purpose of assigning lands resumed by the Government by evicting encroachers to landless people.

3. While the company was holding the lands, the State Legislature enacted Act, 1971 on 21st day of January, 1971 to provide for resumption of land other than plantation in the Kannan Devan Hills Village and for distribution of such lands for cultivation and proposes ancillary thereto. As per Section 3 of Act, 1971, possession of all the lands in Kannan Devan Hills Village, except those categories mentioned in sub-sections (2) and (3), stood transferred to and vested in the Government from 21.01.1971. Kannan Devan Hills Produce Company challenged the validity of the Act before the Hon'ble Supreme Court and in Kannan Devan Hills Produce Co. Ltd. v. State of Kerala [1972 KLT 377], the Hon'ble Apex Court upheld its validity.

4. Kannan Devan Hills Produce Company made an application invoking Section 4 of the Act, which provides for restoration of possession of lands in certain cases for which decision had to be taken by the Land Board constituted under Section 100 of the Kerala Land Reforms Act, 1963. It resulted in an order of the Land Board dated 29.03.1974 determining the land that had vested with the Government, land that had not vested with the Government, and the lands eligible to be vested to Kannan Devan Hills Produce Company Limited. In the said order, Land Board held that 70,522.12 acres of land would vest with the Government and that Kannan Devan Hills Produce Company would be entitled to possess 57,192,65.560 acres on the same terms and subject to the same condition to which they were holding the land, immediately before the appointed day. The Land Board also directed transfer of registry in Revenue records and regularization of transfer of 69,29.01 acres of estates; presumed that transfer of registry had been affected in respect of 15.61 acres and recommended grant of pattas in the case of 39 instances where 226-69-440 acres had been alienated by the Kannan Devan Hills Produce Company.

5. According to the petitioner, there are large scale encroachments in KDH and surrounding villages like Chinnakkanal, Manakulam, Anaviratty, Pallivasal etc., and that the same were sought to be regularized, by issuance of pattayams in the years 1975, 1982, 1993, 1994 and in 1998/1999. The State introduced the Kerala Land Assignment (Regularization of Occupants of Forest Lands prior to 01.01.1977) Special Rules, 1993 for assignment, settlement and regularization of forest lands under occupation prior to 01.01.1977. Thereafter, a number of pattayams were issued under Rule 9 of the said Rules, in respect of land even in Chinnakkanal Village where there are no forest lands. While so, by notification dated 25.06.1998, the Divisional Forest Officer, Munnar Division, Devikulam, 4th respondent, invited applications for assignment of the lands in KDH Village. A provisional list of beneficiaries was also published. According to the petitioner,

the names included in the list were mostly affluent persons and benamies of politicians. However, the first respondent conducted a pattayamela and handed over pattayams at a meeting presided over by the then Revenue Minister on 30.03.1999.

6. In the meanwhile, there arose allegations that many of the pattayams existing in relation to the lands in KDH Village were bogus. By order dated 17.11.2003, the Government have constituted an expert committee for detecting bogus pattas. The expert committee submitted a report on 01.09.2006 and State of Kerala, represented by the Chief Secretary, Government Secretariat, Thiruvananthapuram, respondent No.1, issued order dated 17.02.2007, broadly outlining the steps for evicting encroachers of land in KDH Village. Later, the 1st respondent constituted a Special Task Force for carrying out the action contemplated in the Government Order dated 17.02.2007; but it was disbanded by September, 2007.

7. The petitioner, under the Right to Information Act, 2005, has received certain information as per Exhibit-P4 information, which reveals that only 30.7942 hectares have been resumed in KDH Village, bulk of which came from alleged encroachments by a group of people in 'Seven Malai' and 'Chokramudi'.

8. The first respondent issued Exhibit-P5 Government order dated 20.11.2008 for assigning 1662 acres of land allegedly resumed by evicting encroachers to eligible landless people. Sanction was accorded as per the above Government order to distribute 1662 acres to eligible landless people including 'Adivasis', SC/ST and Estate workers in various survey numbers of KDH, Vattavada and Keezhanthoor Villages. Consequently, the District Collector, Idukki, respondent No.3, has issued Exhibit-P6 proceedings dated 05.12.2008, according sanction for inclusion of the lands described in Exhibit-P5 Government order.

9. The petitioner has submitted Exhibits-P16 and P17 representations before the 3rd respondent pointing out that the proposed assignment is in violation of the Act and the Rules; that the assignment proposed would further cause damage to the ecosystem; and that the action contemplated would be against the very purport of the eviction drive. However, none of the representations have evoked a reply. Hence, this writ petition was filed seeking the following reliefs:

- i. Issue a writ of certiorari or other appropriate writ or order quashing and setting aside Exts.P5 and P6.
- ii. Issue a writ of mandamus or other appropriate writ or order directing respondents to take up and dispose of Exts.P13, P16 and P17.
- iii. Issue such other writs, orders and directions including direction to pay the costs, as is deemed fit in the facts and circumstances of the case.

10. The District Collector, Idukki, respondent No.3, has filed a counter affidavit, wherein, it was contended as follows:

"A. The Cabinet Sub Committee of the Government of Kerala constituted as per GO(MS) No..317/2008 dated 25.9.2008 decided in its meeting held on 09.10.2008 to assign 1664 acres of government land to the eligible landless people in KDH village, Vattavada village, and Keezhanthoor Village. Accordingly a Government Order G.O(MS) No.394/2008/Revenue dated 20.11.2008 was issued. Consequently the District Collector approved a list of assignable land by order dated 5.12.2008. The above Writ Petition is filed challenging the aforesaid orders which are produced as Exts.P5 and P6. It is further prayed in the Writ Petition that the representation Exts.P13, P16 and P17 may be directed to be disposed of.

B. The petitioner in the Writ Petition attacks Exts.P5 and P6 mainly on the ground that the said orders are passed in violation of the Kannan Devan Hills (Resumption of Lands) Act, 1971 hereinafter referred to as the Act 5 of 1971 and the Rules framed thereunder. It is submitted that the lands on which assignment proceedings have been initiated do not come under the preview of the Act 5 of 1971. That the land on which assignment proceedings have been initiated are the lands coming under Clause 'd' of sub section 2 of section 3, that the same were not resumed under the Act and were with the Government even prior to 1971.

C. On the basis of Ext.P5 Government Order dated 20.11.2008, applications for the purpose of assignment were invited. A notice numbered as B3 15517/2008 dated 25.11.2008 was issued by the Tahsildar, Devikulam calling for claims and objections if any in this regard. A press release dated 29.11.2008 was issued and the same was published in Malayala Manorama, Deshabhimani and Mathrubhumi dailies on 1.12.2008. A total number of 27,040 applications were received for assignment of land.

D. The last date for receipt of application was fixed as 31.12.08. The criteria for assignment was fixed as per Rule 7 of the Land Assignment (Amendment) Rules 2009. The applications were scrutinised from 01.01.09 to 27.01.09 by a team consisting of Deputy Collector, Tahsildars, Deputy Tahsildars, Revenue Inspectors, Village Officers and clerical staff. More than 150 officials were deputed for the said purpose. Officers were deployed to all villages for field verification. Out of the 27040 applications received, 17133 applications were found to be eligible and the same was submitted before the Assignment Committee consisting of M.P, M.L.A, Representatives of political parties who have representation in the Legislative Assembly, representatives of SC/ST and Presidents of Panchayats on 21.02.09 for scrutiny and approval. Considering the volume of eligible applications it was decided by the Assignment Committee to draw lots for selection to distribute land. As the first phase of the programme it was decided to distribute lands available in KDH village to natives of KDH village. The first preference will be given to local people and then to Devikulam Taluk followed by Idukki and rest of Kerala. Accordingly 1044 assignment orders were issued for assignment in the KDH villages. The entire procedure for assignment was transparent and strictly in accordance with Kerala Land Assignment Rules.

E. The 3rd respondent was not aware of the claim made by the petitioner in Paragraph 1 of the Writ Petition. It is submitted that in pursuance to Section 6 of the Act 5 of 1971 the District Collector arranged for the survey and demarcation of the areas as required specifying the extent, identity and such other particulars and the survey work was completed. Notifications were published in the Kerala gazette dated 15.02.77 and 21.06.77 to the said effect. Averments to the contrary in paragraph 8 of the Writ Petition are denied. Section 9 of Act 5 of 1971 has absolutely no relevance in the instant case. The allegations made by the petitioner that no effective steps were taken by the respondents for promotion of agriculture and for the welfare of the agriculture population are denied. Averments in Paragraph 10 of the Writ Petition are not correct. Rules framed under Kerala Land Assignment (Regularization of Occupants of Forest Land prior to 01.01.77) Special Rules 1993 is applicable to Chinnakanal Village also.

F. It is humbly submitted that with respect to the lands mentioned in Exhibit-P4, there are litigations pending and hence, those lands were excluded for the purpose of assignment for the present. The lands coming under Survey Numbers 912, 339/8, 1264, 1265, 622, 20/1 and 155/1 of KDH village will not come under the Act 5 of 1971 and the same were under the Government prior to 1971. Hence, the averments in paragraph 10 of the Writ Petition have no relevance. The averments in paragraph 16 of the Writ Petition are incorrect and hence denied. The averments that 288.42 acres at Kuttiyar house site is with the Forest Department and is utilized by M/s. Hindustan News Print Ltd. is not true to facts. The Company has put a claim over 53.94 Ha of land and filed a Writ Petition W.P. (C) No.35811/08 before this Court and this Court constituted a High Power Committee to resolve the issue within a period of 4 months. It was also clarified that the State can proceed with the assignment proceedings except actual assignment of land. It is submitted that the said land is excluded from assignment proceedings for the present. The assignments at Kacherimedu and Kacheri settlements are under the Kerala Land Assignment Rules. Hence, it is valid.

G. The lands involved in subject dispute were excluded from the assignment. The said lands are fertile and resumed from the encroachers. Applications have been invited, as narrated in paragraph 4 above, and strictly as per the procedure laid down under the Kerala Land Assignment Rules, 1964. The representation, mentioned in paragraph 26, was received subsequent to the filing of the Writ Petition. However, the averment that the assignment proceedings would cause damage to the ecosystem is misplaced and was raised only to sabotage the land distribution. It is submitted that 1044 assignment orders were issued on 23.02.2009 and all the proceedings initiated by the authorities and Exhibit P5 and P6 orders are strictly in accordance with law and legally sustainable.

H. The survey as contemplated under Section 6 of Act 5 of 1971 was conducted and notification to that effect was published in the Kerala Gazette dated 15.02.77

and 21.06.77. With regard to the land which was resumed and covered under Exhibit P4, litigations are pending. Hence, the same is excluded from assignment. The Government order itself provides for distribution of land also to landless labourers and plantation workers, who are otherwise eligible for assignment. As per Kerala Land Assignment Act land can be assigned only to the natives of Kerala. There are plenty of workers who are 2nd or 3rd generation of Tamil Origin settled in Kerala.

I. Proper enquiry has been conducted by the Tahsildar on eligibility, out of 11354 applicants in Devikulam Taluk, around 9810 have been found eligible. Specific complaints, if any, can be enquired and appropriate action can be taken to delete the names of such beneficiaries. In KDH village, first preference was given to the local people and then to Devikulam Taluk, applicants followed Idukki and the rest of Kerala. The District Collector, Idukki included the lands covered by Exhibit-P5 order in the approved list of assignable lands, as per proceedings No.C2-51686/08 dated 5.12.08. The procedures envisaged under Rules 11 and 12 were strictly complied with.

11. Heard the learned counsel for the petitioner, as well as the learned Special Government Pleader, and perused the records.

12. Learned counsel for the petitioner contended that the 1st respondent did not comply with the mandate under Section 9 of Act, 1971, which specifies that Government can assign land in Kannan Devan Hills Village only to agriculturists and agricultural labourers. Section 9 of Act, 1971 reads thus:

"9. Assignment of lands -(1) The Government shall, after reserving such extent of the lands, the possession of which has vested in the Government under sub-section (1) of section 3 (other than lands, the possession of which has been restored under section 4), as may be necessary for purposes directed towards the promotion of agriculture or the welfare of the agricultural population to be settled on such lands, assign on registry the remaining lands to agriculturists and agricultural labourers in such manner, on such terms and subject to such conditions and restrictions, as may be prescribed.

(2) The Government may, by notification in the Gazette, delegate their power of assignment under sub-section (1) to the Collector, subject to such restrictions and control as may be specified in the notification."

13. Learned counsel for the petitioner has also placed reliance on the decision of the Hon'ble Apex Court in Kannan Devan Hills Produce Co. Ltd. (cited supra), in which it is held that if the State were to use lands for the purpose which have no direct connection with promotion of agriculture or welfare of agricultural population, the State could be restrained from using the lands for those purposes. Any fanciful connection with this purpose would not be enough."

14. Record of proceedings shows that interim orders have been issued periodically and they are reproduced.

Order dated 25.02.2009, reads thus:

"It is submitted by the learned Government Pleader that Government Order was published inviting applications and notice was published in Mathrubhumi and Malayala Manorama on 29.11.2008 as per the Government Order dated 20.11.2008 and only 1044 land assignment orders were issued, that too regarding 88 acres of land in Kannan Devan Hills Village and they are unoccupied land which would come under the Kannan Devan Hills (Resumption of lands) Act. It is also submitted that preference will be given to the local people and more than 19,000 applications are received from Devikulam Taluk, apart from the thousands of applications received from Udumbanchola, Peerumedu, Thodupuzha etc. The total applications received was 27,014. The last date for receiving applications was 31.12.2008 and about 26 days were there for verification of applications. It is the contention of the petitioner that the land ordered to be assigned were not assignable. It is further contended that earlier pattas were cancelled as the orders were issued by the Tahsildar and not by the District Collector. Here, the assignment orders were also signed by the Tahsildar. It is submitted by the Government Pleader that pattas will be issued only after paying the fees. In these circumstances, we direct the respondents to file a detailed counter affidavit before further issuing assignment orders as well as pattas. It is submitted that a counter affidavit will be filed within three days.

Post on 2.3.2009."

15. Thereafter, on 02.03.2009, another Division Bench of this Court has passed the following order:

"This writ petition is filed alleging that assignment of land is taking place in violation of Kannan Devan Hills (Resumption of Lands) Act, 1971 (for short the Act). There are further allegations that no proper notice was given and assignments are made on the basis of favouritism without conducting any due enquiry. It is stated in the counter affidavit that the lands covered under the Act are not distributed at present. It is further stated that all disputed lands are excluded, that only undisputed lands are given strictly in accordance with the Land Assignment Rules and that no forest land is given. It is further submitted that press releases were published in all the leading newspapers that 27,040 applications were received. Those applications were verified and only 17,133 applications were found eligible and assignments were made only in respect of 1,044 applications and assignments were given only to local residents.

2. The learned counsel for the petitioner submitted that when there are many applications of local residents, outsiders are allotted and the entire land in KDHP village is covered by the Act. All these are matters to be looked into seriously.

3. Admit the writ petition. However, stay is vacated. The District Collector (R3) shall see that applications are perused correctly, that no forest land is allotted, that the land allotted are undisputed lands and that allotment is strictly in accordance with the Land Assignment Rules.

I.A.No.3088 of 2009 for impleading is allowed. Petitioner to file reply. The entire assignments in the village are covered by the Act. This matter has to be argued in detail, but, we make it clear that any assignment made is provisional and subject to strict supervision by the District Collector. The respondents should also file a detailed affidavit justifying the allotments made. Respondent No.4 shall verify and report whether any forest lands are involved in the allotment."

16. Pursuant to the direction issued by this Court on 20.11.2019, the 3rd respondent has filed an affidavit dated 11.03.2020 along with supporting documents, Exhibits-R3(a) and R3(b), the details of persons to whom pattas were given in Kizhanthoor and Vattavada Villages. Said affidavit reads thus:

A. Referring to Section 3(1), 3(2) and Section 9 of the Kannan Devan Hills (Resumption of Lands) Act, 1971, which came into force on 21.01.1971, the 3rd respondent contended that in the lights of the above provisions, the the lands resumed under Section 3(1) of the KDH (RL) Act, can only be assigned under Section 9 of the Act. However, the lands assigned in the present case are not the lands resumed under KDH (RL) Act, 1971. Moreover, vide letter No. 62613/R3/08 RD dated 04.12.2008 addressed to the Additional Commissioner of Land Revenue, Government have clarified that the lands exempted under Section 3(2) (d) do not come under the purview of the KDH (RL) Act, 1971, and hence, assignment of these lands can be made as per Kerala Land Assignment Act, 1960.

B. Government of Kerala vide G.O. No.394/08/Rev. dated 20/11/2008 have ordered for assignment of an extent of 1664 acres of Government land in Kannan Devan Hills (hereinafter "KDH"), Keezhantoor and Vattavada Villages of Devikulam Taluk, to eligible persons, including Adivasis, members of Scheduled Caste and Scheduled Tribes, and plantation labourers, as detailed below:

Sl. No

Village

Sy. No.

Total Extent

Extent to be assigned

1.

KDH

912 (Anthoniyar colony)

5 Acres

4 cents each

2.

KDH

339/3, 1264, 1265, 622 (Kuttiyar House site)

283.42 Acres

10 cents each

3.

KDH

20/1

20/1

155/2

11 Acres 13.85 Acres 01.15 Acres

4 cents each

4 cents each

4 cents each

4.

Vattavada

Block No.62 Sy. No. 183/1

350 Acres

50 cents each

5.

Keezhantoor

Block No. 50 Sy. No.4/1

1000 Acres

50 cents eac

Total

1664.42 Acres

The 3rd respondent has included the said lands in the approved list of assignable lands as per proceedings No.C2-51686/2008 dated 05.12.2008.

C. The subject lands comprised in Kannan Devan Hills village (KDH village), come under the category of lands mentioned in Section 3(2)(d) of the KDH (RL) Act. As such, those lands are assignable under the Kerala Land Assignment Act and Rules and do not come under the KDH (RL) Act for assignment.

D. In the light of Government order dated 20.11.2008, a notice No.B3 15517/08

dated 24.11.2008 was published by the Tasildar, Devikulam, inviting applications from the eligible persons. The duration of submission of application was 01.12.2008 to 31.12.2008, and the contents of the notice were published in all the major dailies, including Malayala Manorama and Mathrubhumi. Meanwhile, Sri. Duraipandi S/o. Muthupandi and Sri. Manoj V. Nair filed writ petitions before the assigning authority Tahsildar, Devikulam, alleging that the lands proposed to be assigned in Sy. Nos.20/1 and 155/1, 2 were under their possession and enjoyment.

E. Both the petitioners were heard. It was found that all the documents produced by the 1st amongst the said petitioners were bogus and that the said person had no title, possession or interest over the lands claimed and therefore his claim was disposed of as above. The 2nd amongst the said petitioners did not produce any documents in support of his claim. Instead, at this stage, Mr. Manoj V. Nair has filed WP(C) No. 36469/2008 before this Court wherein by order dated 11.12.2008, a learned Single Judge has granted interim stay and referred the matter to the Ombudsman (Travancore-Cochin Devaswom Board). Accordingly, the land claimed by the petitioner was excluded from assignment i.e, 11 acres comprised in Sy. No.20/1 of KDH Village.

F. In respect of the lands comprised in Kuttiar House Sites Area in KDH Village, Hindustan Newsprint Ltd. filed WP(C) No.35811/08 before this Court alleging that the 283.42 acres ordered to be assigned include 53.94 Ha. under their possession. In that case, this Court has constituted a High Power committee to resolve the issue within a period of 4 months. However, it was also clarified that the State can proceed with the assignment proceedings except implementation of final orders. Accordingly, statutory notice under Rule 12(1) of KLA Rules, 1964 was published on 16.01.2009 in the concerned Village Offices, Grama Panchayats and the Taluk Office, Devikulam. The total number of applications received for assignment of land was 27040. The

Taluk-wise breakup of the above figure is given below:

1

Devikulam

19720

2

Udumbanchola

855

3

Peermade

643

4

Thodupuzha

1822

Total

27040

G. The applications received in the Taluks other than Devikulam were verified by the Tahsildars concerned with recommendation by the respective Land assignment committees and forwarded to the Tahsildar, Devikulam for further action. About 150 officials were deputed to the Devikulam Taluk from the other offices of the various districts of the state for the verification of the applications. The officials were deployed to all the villages of Devikulam Taluk for field verification. The verification of applications in Devikulam Taluk started on 01.01.2009 and was completed on 27.01.2009.

H. Out of the 27040 applications received, 17133 applications were found to be eligible for assignment of land. The list of applications found eligible was submitted before the Assignment Committee on 21.02.2009 for scrutiny and approval. Considering the volume of eligible applications, it was decided to distribute the land available for assignment in the 1st phase to the applicants from KDH Village. Accordingly, in the Land Assignment Committee meeting, it was decided to select the allottees from the 9810 eligible applicants in KDH Village, by draw of lots. The total number of plots fit for assignment in KDH Village was 1044. Survey number wise break up of plots in the KDH Village found fit for assignment is given below.

Sy. No.

No. of Plots

Extent assigned

Total Extent

1

912 of KDH Village (Anthoniyar Colony)

97 plots

4 cents each

3.88 Acres (1.5708 Ha)

2

339/3, 1264, 1265 622 of KDH Village (Kuttiyar House site)

770 plots

10 cents each

77.00 Acres (31.1740 Ha)

3

20/1 155/2 of KDH Village (Katchery Medu)

177 plots

4 cents each

7.08 Acres (2.8663 Ha)

Total

1044 plots

87.96 Acres (35.6113 Ha)

I. It was further stated that 1044 eligible applicants were selected by draw of lots by the Assignment Committee on 21.02.2009. On 22.02.2009, assignment orders were issued to the above 1044 allottees in the 1st phase of the assignment proceedings initiated in the Devikulam Taluk as per the Government order dated 20.11.2008 for an extent of total 87.96 Acres (35.1613 Ha.). Regarding 350 Acres in Vattavada Village, the non-forest lands in Vattavada Village falls under the territorial Jurisdiction of the Marayoor Forest Division and all the forest lands surrounding the patta and revenue lands are under the jurisdiction of Munnar Wildlife Division. So far no land coming under the territorial jurisdiction of Marayoor Forest Division under the Vattavada village has been notified as ecologically fragile land. The Writ Petition does not specify the survey numbers of Ecologically Fragile Land alleged by them. Therefore, whether a land is ecologically fragile or not cannot be concluded without physically inspecting the land based on Sy No. There are patta lands and revenue lands in Vattavada village. The physical status of the land can be ascertained only after verification of each survey number in the above land.

J. Regarding Survey No. 4/1 in Block No. 50 of Keezhanthoor Village, under Devikulam Taluk is having an extent of 4336.70 Ha. (10710 acres). It was mentioned as Revenue Puramboke in the Revenue records. But, portions of Vannanthura Sandal Reserve and Chinnar Wildlife Sanctuary are included in this Survey number. Balance areas are under the control of the Revenue Department. An extent of 306 Acres falling in Revenue land in Keezhanthoor Village was assigned to 657 families (50 cents each to 567 families involved in Chengara struggle and 25 cents each. to other 90 families). According to the Tahsildar, Devikulam only one family has occupied the land assigned. It is understood that some pattas were also issued during 1982 period and extent assigned is being ascertained. The Revenue Department has to take action to cancel the pattas issued to 567 families as the assigned lands are not occupied yet.

K. It is submitted by the Divisional Forest officer, Marayoor that a good portion of

the land under Revenue Department is grass land and that some area is under encroachment as also the encroached Revenue lands are planted with eucalyptus. The allegation that there are wattle plantations in this area is not true. There are eucalyptus plantations raised in the encroached lands. For details of assignment and as to proceedings of cancellation, the Tahsildar, Devikulam has sought for three more weeks' time. Further, the Wildlife Warden, Munnar would submit that no land is assigned in Kottakamboor village so far and that pattas were issued for 29 persons in Keezhanthoor Village and 339 persons in Vattavada Village, in relation to "Bhoorahitharillatha Keralam Project". Details of 29 persons for whom pattas were given in Kizhanthoor Village and 363 persons, for whom, pattas were given in Vattavada Village are produced as Exhibits-R3(a) and R3(b). Further, no land is assigned in block number 58 in Kottakamboor Village and block number 62 in Vattavada Village, which are notified as Kurinjimala Sanctuary under Munnar Wildlife Division.

L. There is an established Elephant Corridor in Block number 58 in Kottakamboor Village which is part of Kurinjimala Sanctuary notified area coming under Munnar Wildlife Division. According to the Tahsildar, Devikulam, 5006.94 ha. (12,372.15 acres) was of land was resumed from encroachers as per Mission Munnar Project and it includes encroached lands in KDH, Munnar, Anaviratty and Pallivasal Villages and also areas in Parvathy Mala(Seven Hills) and the lands resumed have been assigned under 'zero landless project'

M. With regard to averments in paragraphs 1 to 5 of the Writ petition, it is submitted that by lease agreement dated 11.07.1877 (known as 1st Concession), the then Poonjar Chief granted permission to Mr. John Daniel Munroe, to convert the lands comprised in the entire Revenue Village of Kannan Devan Hills in Devikulam Taluk into Coffee cultivation. In 1878, the Maharaja of Travancore ratified the lease (Deed of Ratification) and the right, title and interest of the lessor was asserted by the former Government of Travancore. There was also the issue of a second concession executed by the Poonjar Chief in favour of Mr. John Daniel Munroe, which was not seen ratified by the Maharaja of Travancore. The right, title and interest of Government of Travancore over the aforesaid land and other lands subsequently vested in the Government of Kerala, as the successor in interest of the former Government of Travancore. A large extent of Government Land in that Village had not been converted into plantation or utilized for the purpose of plantations and such land were found to be not required for the existing plantation and the Government decided to enact the K.D.H (RL) Act, 1971.

N. Regarding the averments in paragraphs 6, 7, 8 and 9 of the writ petition, it is submitted that the total extent of lands resumed from Kannan Devan Hills Produce Private Limited and vested in the Government in the KDH Village consequent on the enactment of the KDH (RL) Act is 70522.12 acres (28539.29 Ha.) as per Land Board Award No. L.B.A2-5227/71 dated 29.03.1974. In pursuance of Section 6 of the KDH (RL) Act, the District Collector has arranged

for survey and demarcation of the areas, as required specifying the extent, identity and such other particulars, and the survey work was completed and the notifications were published in the Kerala Gazette dated 15.02.1977 and 21.06.1977. Accordingly, an extent of 58741.82 acres of land was handed over to M/s. Tata Finlay Ltd., the successor in interest of Kannan Devan Hills Produce Private Limited, as per Proceedings No. B1- 6642/77 dated 12.06.1978 of the Tahsildar, Devikulam.

O. It is further stated that an expert committee was constituted vide G.O.(Rt) No.3611/03/RD dated 17.11.2003 for the purpose of unearthing bogus pattayams in KDH Village. The committee submitted a report to the Government on 01/09/2006. Government have approved the said report and issued G.O.(Rt.) No. 754/07/RD dated 17.02.07. Steps were taken to implement the instructions contained in G.O.(Rt.) No.754/07/Rev. dated 17.02.2007 and Task forces were formed to unearth bogus pattayams and for the removal of encroachments, as a result of which, several pattayams were cancelled and the process is still in progress. Various challenges for the cancellation of pattayams are pending consideration before this Court.

P. Regarding the averments in paragraphs 14 and 15 of the writ petition, it was stated by the 3rd respondent that the Government order dated 20/11/2008 includes the land retrieved from the encroachers in Vattavada and Keezhantoor Villages. Hence, there is no legal infirmity in the said order, as alleged. The lands on which assignment proceedings have been initiated do not come within the purview of KDH (RL) Act, 1971. Hence, the allegations to that effect are baseless.

Q. It was further stated that out of 283.42 acres assigned in Kuttiar House site area, Hindustan Newsprint Ltd. has put a claim over 53.94 Ha. of land. The said Company filed WP(C) No. 3581 of 2008 alleging that the 283.42 acres ordered to be assigned include 53.94 Ha. under their possession. The Writ Petition was disposed of vide judgment dated 19.12.2008, wherein it was directed to constitute a High Power Committee to resolve the issue within a period of four months. It was also clarified in the said order that the State can proceed with the assignment proceedings except implementation of final orders.

R. With respect to ground 'G', the 3rd respondent has finally stated that about 150 officials were deputed to the Devikulam Taluk from other offices for verification of the applications. The above officials were deployed to all the villages of Devikulam Taluk for field enquiry and property enquiry has been conducted

by those teams. The 3rd respondent has included the lands covered by Exhibit-P5 in the approved list of assignable lands as per proceedings No.C2-51686/2008 dated 05.12.2008 and all the legal formalities have been completed before land assignment.

17. Though several grounds were raised, Mr. P. Ramakrishnan, learned counsel for the petitioner, laid stress only on paragraph (15) of the supporting affidavit.

However, on evaluation of the entire aspects, we are satisfied that the allegations and imputations made in the writ petition have no factual or legal basis. Moreover, this Court, as per the interim order dated 02.03.2009, has permitted the Revenue to issue pattayams, subject to strict scrutiny. The affidavit filed by the 3rd respondent on 11.03.2020, as extracted above, shows that pattayams have been issued, after taking necessary precautions under law, and that the properties utilised for the purpose had no other legal infirmities from being assigned.

In that view of the matter, we do not find any ground to interfere with the impugned orders. Accordingly, this writ petition is dismissed.