IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

&

THE HONOURABLE MR.JUSTICE MURALEE KRISHNA S.

WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947

WP(C) NO. 35713 OF 2015

PETITIONERS:

1 C.LEELA, AGED 56 YEARS, W/O.CHELLAYYA, MAHATHMA GANDHI COLONY, MUNNAR PO, IDUKKI.

2 K.SUMATHY D/O.ANBALAGAN, AGED 30 YEARS MAHATMA GANDHI COLONY, MUNNAR PO, IDUKKI.

3 ASHOK KUMAR, AGED 37 YEARS S/O.ARCHYUNAN, CHOCKANAD, MUNNAR, IDUKKI

4 SANTHI, MAHATHMA GANDHI COLONY, MUNNAR, K.D.H. VILLAGE DEVIKULAM TALUK, IDUKKI.

5 K.BALAGURU, AGED 31 YEARS, MAHATHMA GANDHI COLONY, MUNNAR, IDUKKI

6 C.MUNIASAMY, AGED 31 YEARS S/O.CHELLAYYA, MAHATMA GANDHI COLONY, MUNNAR, IDUKKI.

7 S.MANI, MAHATHMA GANDHI COLONY, MUNNAR, IDUKKI

8 M.PETCHIYAMMAL, AGED 31 YEARS, W/O.MURUGAKUMAR, LETCHMI ESTATE, VIRPARA DIVISION, MUNNAR, IDUKKI.

9 R.MUNIAMMAL, AGED 31 YEARS, W/O.RAJAKANNAN, CHOCKNAD ESTATE, MUNNAR, IDUKKI.

BY ADVS.
SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.

2 THE DISTRICT COLLECTOR
IDUKKI 685 612.

3 THE TAHSILDAR
TALUK OFFICE, DEVIKULAM, IDUKKI 685 612.

4 SPECIAL TAHSILDAR
REVENUE DEPARTMENT, MUNNAR PO, IDUKKI DISTRICT PIN 685 612.

5 THE VILLAGE OFFICER
KANNAN DEVAN HILLS VILLAGE, IDUKKI 685 612.

6 ADDL R6. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, KERALA STATE ELECTRICITY BOARD,VAIDHYUTHI BHAVAN,PATTOM P.O,THIRUVANANTHAPURAM,PIN 695004 (IMPLEADED AS PER ORDER DATED 01/10/2021 IN IA 1/2019)

7 ADDL.R7. MUNNAR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, MUNNAR P.O., IDUKKI - 685612

8 ADDL.R8. THE SECRETARY,
MUNNAR GRAMA PANCHAYATH, MUNNAR P.O., IDUKKI - 685612
(ADDL.R7 AND R8 IMPLEADED AS PER ORDER DATED 27-02-2025 IN IA 3/2025)

OTHER PRESENT:

SRI. JAFFARKHAN Y. SR. GP; SRI. ARUNKUMAR A, SC, KSEB; SRI. ARUN THOMAS, SC, MUNNAR GRAMA PANCHAYAT

THIS WRIT PETITION (CIVIL) WAS FINALLY HEARD ON 19.03.2025, THE COURT ON 2.4.2025 PASSED THE FOLLOWING:

JUDGMENT

Muralee Krishna, J.

This writ petition is filed under Article 226 of the Constitution of India by the petitioners seeking a writ of mandamus directing the 3rd respondent Tahsildar, Devikulam to consider Exts.P2 to P2(h) applications for the assignment of land submitted by the petitioners and assign 0.03 cents of property each in survey No.912 of Kannan Devan Hills Village to the petitioners.

2. Going by the averments in the writ petition, the petitioners are landless persons. They belong to scheduled caste community, and they are enjoying the possession of 0.03 cents of landed property each in Kannan Devan Hills Village from 1998 onwards. The petitioners have no other land except the small extent of land covered by Ext.P1 certificate issued by the 5th respondent. On 9.4.2004 the petitioners submitted applications for assignment before the 3rd respondent under Rule 11(8) of the Kerala Land Assignment Rules, 1964, in the prescribed form. But even after the lapse of considerable time, the 3rd respondent did not pass any order on Ext.P2 to P2(h) applications submitted by the petitioners.

The petitioners also submitted Ext.P3 to P3(h) applications before the Munnar Grama Panchayat for a building permit. Aggrieved by the inordinate delay in considering the application for building permit, petitioners approached this Court by filing W.P.(C) No.12455 of 2015. On 10.04.2015 this Court disposed of that writ petition directing the Munnar Grama Panchayath to consider and dispose of Exts.P3 to P3(h) representations within two months from the date of receipt of a copy of the judgment. Since there was non-compliance on Ext.P4 judgment, the petitioners filed a contempt of court case and the same is pending before this Court. However, the 4th respondent threatened the petitioner and demolished their respective sheds without serving any notice. Since petitioners had no other land, they again constructed their sheds and resided there. The applications of the petitioners for assignment are pending before the 3rd respondent. But the 4th respondent unnecessarily harassing and threatening to evict the petitioner forcefully. Hence the petitioners approached this Court by filing this writ petition.

3. The 4th respondent Special Tahsildar, Revenue Department

filed a counter affidavit dated 24.02.2016 producing therewith Exts.R4(a) to R4(c) documents. Paragraphs 2 to 5 of that counter affidavit read thus:

> "2. It is submitted that the land in question is Government puramboke land comprised in Sy.No.912 of KDH Village. The land is under the custody of KSHB and it is under the supervision of the 4th respondent. The land is kept for KSHB purpose, and it is free land without any structure for years.
> 3. The Certificates produced by the petitioners as exhibits are forged ad created by the petitioners. The 2nd respondent as per his Proceedings No.E2.40384/99 dated 16.08.2001 has ordered to cancel all old cases of Possession Certificates issued and had given one month to submit application for ratification. If ratification has not been made within one month, the Certificates will stand cancelled. No ratification is seen made in the Certificates produced by the petitioners as exhibits. A true copy of the Proceedings No.E2.40384/99 dated 16.08.2001 of the District Collector, Idukki is produced herewith and may be marked as Exhibit R4(a).
> 4. It is submitted that no structure has been there in the land in question for several years and the land under the custody of KSHB and under the supervision of the 4th respondent. The petitioners have approached the Hon'ble Court with forged documents created by them and their action should not have to be entertained at any cost. This Hon'ble Court had dismissed W.P.(C)No.14013/2013 by

judgment dated 12.07.2013 in the light of similar facts. A true copy of the judgment dated 12.07.2013 in W.P.(C)No.14013/2013 of the Hon'ble Court is produced herewith and may be marked as Ext.R4(b). Hence, the attempt of the petitioners to encroach Government land with forged documents created by them may not be entertained by this Hon'ble Court.

5. It is denied that the petitioners are in possession of the lands and are residing in the plots. A true copy of the photographs showing barren nature of the land which is presently in the possession of the authorities is produced herewith and may be marked as Ext R4 (c). The attempt of the petitioners is to make out a case of possession which is false. The attempt of the petitioners to encroach the land was intervened and prevented by the respondents. Hence, the entire claim now put forward is fraudulent and liable to be treated as such".

4. Heard the learned counsel for the petitioners, the learned Government Pleader, the learned Standing Counsel for the Kerala State Electricity Board ('KSEB' in short) and the learned Standing Counsel for the Munnar Grama Panchayat.

5. The learned counsel for the petitioners submitted that the petitioners are landless and homeless persons in occupation of puramboke land in the possession of KSEB. Though they have filed

repeated applications for the assignment of the land in their possession under Rule 11 (8) of the Kerala Land Assignment Rules, 1964, no orders have been passed in those applications by the 3rd respondent Tahsildar, Devikulam.

6. On the other hand, the learned Government Pleader submitted that the land in question is puramboke land under the custody of KSEB and it is kept for the purpose of KSEB. The certificates produced by the petitioners are forged documents. The property in question in this writ petition is situated in Kannan Devan Hills Village.

7. The land in question in this writ petition is situated within the area wherein Kannan Devan Hills Act, 1971 (KDH Act, in short) is notified as applicable by the Government. As per Section 1(2) of the Act, it came into force on 21.1.1971. As per Section 1(3) of the Act, it applies to the land comprising the revenue village of Kannan Devan Hills in the Devikulam Taluk. Section 3 of the Act deals with the vesting of possession of all lands situated in Kannan Devan Hills Village in Devikulam Taluk in the Government. Section 3 of the KDH Act reads as under:

"3. Vesting of possession of certain lands.

(1)Notwithstanding anything contained in any other law for the time being in force, or in any contract or other document, but subject to the provisions of sub-sections (2) and (3), with effect on and from the appointed day, the possession of all lands situate in the Kannan Devan Hills village in the Devikulam taluk of the Kottayam district shall stand transferred to and vest in the Government free from all encumbrances, and the right, title and interest of the lessees and all other persons, including rights of mortgagees and holders of encumbrances, in respect of such lands, shall stand extinguished.

(2)Nothing contained in sub-section (1) shall apply in respect of-

(a)plantations, other than plantations belonging to trespassers ;

(b)buildings, other than buildings belonging to trespassers, and lands appurtenant to, and necessary for the convenient enjoyment or use of, such buildings;

(c)play-grounds and burial and burning grounds; and

(d)lands in the possession of the Central Government or any State Government or the Kerala Stale Electricity Board.

(3)Nothing contained in sub-section (1) shall apply in respect of so much extent of land held by a lessee under his

personal cultivation as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto".

8. As far as the assignment of such lands covered by KDH Act, Section 9 is relevant. The said Section reads as under:

"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."

9. A reading of Section 9(2) of the KDH Act would make it clear that the power to assign the land vested in the Government under the provisions of the said Act is on the Government and

such power can be delegated by notification in the Gazette to the District Collector. If the property is part of the vested land under the KDH Act, necessarily the provisions of the KDH Act and Rules made thereunder would apply for the assignment of the said land. Exts P2 to P2(h) applications submitted by the petitioners before the 3rd respondent are for assignment of land under the provisions of the Kerala Land Assignment Rules. Since the property in question is situated in Kannan Devan Hills Village, the authority that can consider the assignment of such lands vested in the Government under Section 3(1) of the KDH Act is the District Collector.

10. Except producing Exts.P1 to P1(h) certificates claimed as issued by the Village Officer, the petitioners have not produced any document to prove their possession of the property claimed therein. According to the Government, Exts P1 to P1(h) certificates are forged certificates and as per Ext.R4(a) proceedings dated 16.08.2001, the 2nd responder District Collector has ordered to cancel all old cases of possession certificates issued, noting that there are no records regarding the issuance of possession

certificates and there are instances in which the signatures of the authorities are forged. In such circumstances, the petitioners are not entitled for the reliefs sought in the writ petition.

In the result, writ petition stands dismissed.

Sd/-

ANIL K.NARENDRAN, JUDGE

Sd/-

MURALEE KRISHNA S., JUDGE

sks

APPENDIX OF WP(C) 35713/2015

PETITIONER EXHIBITS

Exhibit P6	**TRUE COPY OF THE REPLY DATED 17/10/2024 OBTAINED UNDER R.T.I. ACT BY ONE MR.PANNEER.P.JOY.**
Exhibit P7	**TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED FROM THE MUNNAR GRAMA PANCHAYATH DATED 8/3/2022.**
	P2(B)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 3RD PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004
	P2(C)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 4TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004
	P2(D)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 5TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004
	P2(E)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 6TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004
	P2(F)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 7TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004
	P2(G)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 8TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED NIL
	P2(H)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 9TH PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR

LICNENCE DATED 9.4.2004

P3- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 1ST PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(A)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 2ND PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(B)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 3RD PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(C)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 4TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(D)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 5TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(E)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 6TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P2- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1ST PETITONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004

P3(G)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 8TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P3(H)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 9TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P4- TRUE COPY OF THE JUDGMENT DATED 10.4.2015 IN WP(C) NO.12455/2015

P1- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 1ST PETITNER DATED 9.6.1998

P1(A)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 2ND PETITONER DATED 18.7.1998

P1(B)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 3RD PETITONER DATED 16.5.1998

P1(C)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 4TH PETITIONER DATE 16.5.1998

P1(D)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 5TH DATED 16.6.1998

P1(E)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 6TH PETITIONER DATD 9.6.1998

P1(F)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 7TH PETITONER DATED 16.5.1998

P1(G)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 8TH PETITIONER DATED 9.6.998

P1(H)- TRUE COPY OF THE SETTLEMENT ISSUED BY THE VILLAGE OFFICER TO THE 9TH PETITIONER DATD 16.5.1998

P3(F)- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE 7TH PETITONER BEFORE THE MUNNAR GRAMA PANCHAYATH DATED 17.3.2015

P2(A)- TRUE COPY OF THE APPLICATION SUBMITTED BY THE 2ND PETITIONER FOR ASSIGNEMNT OF LAND ON REGISTRY, LEASE, OR LICNENCE DATED 9.4.2004