



2019 INSC 66

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 10563 OF 2014

STATE OF KERALA AND ANR.

... APPELLANTS

VERSUS

PADALODIYIL MARY ANTONY & ORS.

... RESPONDENTS

J U D G M E N T

S. ABDUL NAZEER, J.

1. This appeal is directed against the judgment in M.F.A No. 1247 of 2000 dated 18.09.2007, whereby the High Court of Kerala has allowed the appeal while setting aside the order of the Forest Tribunal dated 22.07.2000 in O.A No. 46/99 filed by the respondents under Section 8 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 (for short 'KPF Act').

2. The respondents filed the aforesaid petition before the Forest Tribunal for a declaration that 1 acre 30 cents of land in survey No. 1293 of Ayyankunnu village, Tellichery Taluk of Kannur district (hereinafter referred to as 'schedule property'), is not a private forest as defined in the KPF Act.

3. By relying on a Commissioner's report in a civil case, the respondents contended that the schedule property was under cultivation when the KPF Act came into force. They further contended that the certificate of purchase has been issued in their favour by the Land Tribunal under the provisions of the Kerala Land Reforms Act, 1963. The appellants opposed the application contending that the schedule property is a private forest, vested in the State Government under the provisions of the KPF Act.

4. Having heard learned counsel for the parties, we do not find any merit in this appeal. The High Court has relied on the local inspection report dated 08.06.1998, wherein it was clear that the schedule property is under cultivation. The Village Officer had marked one portion shaded and other portion unshaded, and it was stated that the property with green shade was cultivated with cashew and the property unshaded was cultivated with rubber and cashew trees. It was found that cashew trees and rubber plantation therein were more than 30 to 40 years old. It was also found that the schedule property is not covered by Madras Preservation of Private Forest Act, 1949 and that it is not a part of the forest. The Court found that no forest trees are found in the schedule property. The Court, on appreciation of the materials on record, recorded a finding of fact that the schedule property is not a private forest as defined under the KPF Act. We do not find any good ground to interfere with the judgment of the High Court.

5. The appeal is devoid of merit and it is accordingly dismissed without order as to costs.

.....J.
(S. ABDUL NAZEER)

.....J.
(DEEPAK GUPTA)

New Delhi;
January 22, 2019.