

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 28TH DAY OF SEPTEMBER 2017/6TH ASWINA, 1939

WP(C).No. 25262 of 2009 (C)

PETITIONER :

**MAHAVIR PLANTATION PVT. LTD.,
WILLINGDON ISLAND, COCHIN-682003,
REPRESENTED BY ITS MANAGING DIRECTOR
SAILESH BHANSALI.**

**BY ADVS.SRI.E.K.NANDAKUMAR
SRI.ANIL D. NAIR
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.MADHU N.NAMBOOTHIRIPAD**

RESPONDENTS :

- 1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, SECRETARIAT,, TRIVANDRUM.**
- 2. THE CUSTODIAN OF KERALA FOREST
(VESTING AND ASSIGNMENT OF ECOLOGICALLY FRAGILE,
LANDS)ACT, 2003, TRIVANDRUM.**
- 3. THE DIVISIONAL FOREST OFFICER,
TRIVANDRUM.**

**R1 TO R3 BY SPL. GOVERNMENT PLEADER
SRI.SANDESH RAJA.K., (FOREST)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-09-2017, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE NOTICE DT 12/2/2007 ISSUED BY THE R3 TO THE PETITIONER TOGETHER WITH THE COPY OF THE GAZETTE NOTIFICATION DT 26/12/2006.**
- P2: COPY OF THE ORDER PASSED BY THE HON'BLE TRIBUNAL PALAKKAD DT 10/5/1983 IN OA NO.94/1980.**
- P3: COPY OF THE APPLICATION FOR REVIEW DT 21/1/2009 SUBMITTED BY THE PETITIONER BEFORE THE R2 (WITHOUT DOCUMENTS).**
- P4: COPY OF THE ORDER DT 20/2/2009 PASSED BY THE R2.**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY/

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No.25262/2009

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Dated this the 28<sup>th</sup> day of September, 2017

**J U D G M E N T**

The petitioner filed a review petition before the Custodian of the Kerala Forests (Vesting and Management of Ecologically Fragile Lands) Act, 2003 (for short, the “EFL Act”) after the promulgation of the EFL Act to review a notification issued under Section 3(1) of the said Act. There is no power traceable to the Custodian to review the notification, though, such power is traceable under the ordinance. The EFL Act only contemplates power of scrutinising the notification under the ordinance. Review is a statutory power. In such circumstances this court is of the view that there is no scope for interfering with the impugned order. However, the petitioner is having a larger remedy before the Tribunal constituted under the EFL Act. If the petitioner approaches the Tribunal within two months from the date of receipt of a copy of this judgment, the Tribunal shall entertain such challenge as though it was filed within time.

The writ petition is disposed of as above.

Sd/-

**A.MUHAMED MUSTAQUE, JUDGE**