

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR
Friday, the 23rd day of July 2021 / 1st Sravana, 1943

WP(C) NO. 12496 OF 2021 (J)

PETITIONERS:

1. THOMAS THOMAS, AGED 70 YEARS, S/O. O.G. THOMAS, OTTAPLAVUNILA, ELANTHOOR , ELANTHOOR P.O, KOZHANCHERY, PATHANAMTHITTA - 689643.
2. MATHEW DEVASSIA, AGED 72 YEARS, ALAPPAT VEEDU, NARANAMOOZHI P.O, ATHIKAYAM, RANNI, PATHANAMTHITTA - 689711.
3. JOSIN P. JOHN, AGED 35 YEARS, S/O. JOHNY P.J, PERINCHELLOOR HOUSE, THALAYAD P.O, UNNIKULAM, CALICUT - 673574,
4. JAMES JOSEPH, AGED 62 YEARS, S/O.JOSEPH, NIRANATH HOUSE, THALAYAD P.O, UNNIKULAM, CALICUT - 673574.
5. MATHEW SEBASTIAN, AGED 62 YEARS, S/O.K.M. DEVASSIA, KURISUMOOTIL HOUSE, KAKKADU P.O, KARUVARAKKUNDU, MALAPPURAM DISTRICT - 676523.
6. RINEESH, AGED 40 YEARS, S/O. BHASKARAN, VENGAYULLA KUNNUMMEL HOUSE, KEDAVUR, KATTIPPARA, KOZHIKODE - 673573.

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY SECRETARY, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, INDIRA PARYAVARAN BHAVAN, JORBAGH ROAD, NEW DELHI - 110003.
2. STATE OF KERALA THROUGH CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM - 695001.
3. THE PRINCIPAL SECRETARY, FOREST AND WILD LIFE(F) DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695001.
4. ADDITIONAL PRINCIPAL CHIEF FOREST CONSERVATOR(ADMINISTRATION), GOVERNMENT OF KERALA, FOREST HEADQUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM - 695001.
5. THE CHIEF WILD LIFE WARDEN, FOREST HEADQUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM - 695014
6. THE STATE DISASTER MANAGEMENT AUTHORITY, REPRESENTED BY ITS CHAIRMAN, OBSERVATORY HILLS, VIKAS BHAVAN P.O, THIRUVANANTHAPURAM, KERALA - 695033.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

1) direct the 1st respondent to recall Exhibit P13 and to dispose of Exhibit P12 in the light of section 62 of The Wildlife (Protection) Act, 1972 to declare wild boars (Susscrofa) as vermin by shifting the same from Schedule III (item No.19) to the Schedule V of the Wild Life (Protection) Act, 1972 within the State of Kerala, during pendency of this Writ Petition.

2) direct the respondents, that there shall not be any punitive proceedings against the petitioners, who trap or kill wild bores which enter into their respective human territories and agricultural land beyond forest areas, during pendency of this Writ Petition (Civil).

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S.ALEX.M.SCARIA, JOSE J.CHERUVIL, JOSSY JACOB, JOHNY K.GEORGE & SARITHA THOMAS, Advocates for the petitioners, CENTRAL GOVERNMENT COUNSEL for R1, and of SPECIAL GOVERNMENT PLEADER for R2 to R6, the court passed the following:



Exhibit P12 : True copy of the letter dated 01/11/2020 bearing no.D2/126/2020-FWLD addressing the Secretary of MoEF

Exhibit P13 : True copy of the letter dated 10/12/2020 bearing no.8-31/2020-WL issued by 1st respondent rejecting Exhibit P12 proposal.



P.B.SURESH KUMAR, J.

W.P.(C)Nos.21207 of 2020 and 12496 of 2021

Dated this the 23rd day of July, 2021

ORDER

Heard the learned counsel for the petitioners, the learned Central Government Counsel appearing in the matters as also the learned Special Government Pleader (Forests).

2. Petitioners in these writ petitions are agriculturists holding lands in Pathanamthitta, Malappuram and Kozhikode Districts. The grievance voiced by the petitioners in the writ petitions concerns the destruction of the crops in their agricultural lands on account of the large scale intrusion of wild boars from the nearby forest. The case set out by the petitioners in the writ petitions, in essence, is that the various steps taken by the respondents to avert the menace posed by wild boars under Section 11(1)(b) of the Wild Life (Protection) Act, 1972 (the Act) did not yield any result and the petitioners are consequently put to irreparable injury and loss. The petitioners, therefore, seek directions to the

W.P.(C)Nos. 21207 of 2020
and 12496 of 2021

2

Central Government to declare wild boars as vermin in the affected areas in the State, invoking the power under Section 62 of the Act.

3. It is seen that having been convinced of the grievance voiced by persons similarly placed like the petitioners, during November 2020, the State Government has requested the Ministry of Environment, Forest and Climate Change, Government of India to declare wild boars as vermin in the problematic areas of the State. In terms of the provisions of the Act, if wild boars are declared as vermin, it can be hunted by the persons concerned to prevent damage to their life and property. The proposal of the State Government aforesaid was returned by the Ministry during December 2020 suggesting to make use of the provisions contained in Section 11(1)(b) of the Act for the purpose of averting the menace, utilizing the services of Panchayat Raj Institutions. It is also seen that on 17.06.2021, the State Government has taken up the matter again with the Ministry of Environment, Forest and Climate Change, Government of India to declare wild boars as vermin in the problematic areas in the State, pointing out that the various steps

W.P.(C)Nos. 21207 of 2020
and 12496 of 2021

3

taken by the State Government since 2011 did not yield any result. The Central Government is yet to take any final decision on the request made by the State Government on 17.06.2021.

4. Under Section 11(1)(b) of the Act, the Chief Wildlife Warden is empowered, if he is satisfied that any wild animal specified in Schedule II, Schedule III or Schedule IV, has become dangerous to human life or to property including standing crops on any land, to permit by order in writing any person to hunt such animal or group of animals in that specified area.

5. Insofar as it is seen that the properties of the petitioners are under threat of the attack of the wild boars and insofar as the stand of the State Government is that the steps taken under Section 11(1)(b) of the Act to avert the said menace did not yield any result and that the only alternative to protect the interests of the farmers is to declare wild boars as vermin in specified areas in the State, I deem it appropriate to pass an interim order directing the Chief Wildlife Warden to permit the petitioners to hunt wild boars in the areas where their agricultural lands are situated, as

W.P.(C)Nos. 21207 of 2020
and 12496 of 2021

4

provided for in Section 11(1)(b) of the Act. Ordered accordingly. The direction aforesaid shall be complied with, within a month.

Sd/-

P.B.SURESH KUMAR, JUDGE

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