

15 -ാം കേരള നിയമസഭ

12 -ാം സമ്മേളനം

നക്ഷത്ര ചിഹ്നം ഇല്ലാത്ത ചോദ്യം നം. 1576

10-10-2024 - ൽ മറുപടിയ്ക്ക്

കാഞ്ഞൂർ പഞ്ചായത്തിലെ 'വലിയ തമ്പുരാൻ കോവിലകം' സംരക്ഷിത സ്റ്റാറകമാക്കുന്നതിനുള്ള നടപടി

ചോദ്യം		ഉത്തരം	
ശ്രീ. അൻവർ സാദത്ത്		ശ്രീ. രാമചന്ദ്രൻ കടന്നപ്പള്ളി (രജിസ്ട്രേഷൻ, മ്യൂസിയം, ആർക്കിയോളജി വകുപ്പ് മന്ത്രി)	
(എ)	<p>ആലുവ മണ്ഡലത്തിലെ കാഞ്ഞൂർ പഞ്ചായത്തിലെ 'വലിയ തമ്പുരാൻ കോവിലകം' സംരക്ഷിത സ്റ്റാറകം ആക്കുന്നതിനുള്ള അന്തിമവിജ്ഞാപനം പുറപ്പെടുവിക്കുന്നതിനുള്ള നടപടിക്രമങ്ങൾ ഏത് ഘട്ടത്തിലാണ്; ഏത് ഉദ്യോഗസ്ഥനെയാണ് ഇക്കാര്യത്തിനായി ചുമതലപ്പെടുത്തിയിട്ടുള്ളത്; വിശദമാക്കാമോ;</p>	(എ)	<p>എറണാകുളം ജില്ലയിലെ ആലുവ താലൂക്കിൽ കിഴക്കുംഭാഗം വില്ലേജിൽ സ്ഥിതി ചെയ്യുന്ന ശക്തൻ തമ്പുരാന്റെ ജന്മഗൃഹമായ വലിയതമ്പുരാൻ കോവിലകം പുരാവസ്തു വകുപ്പിന്റെ സംരക്ഷിത സ്റ്റാറകമാക്കുന്നതിനുള്ള പ്രാഥമിക വിജ്ഞാപനം പുറപ്പെടുവിച്ചിട്ടുള്ളതാണ്. ഇതിനെത്തുടർന്ന് കോവിലകവുമായി ബന്ധപ്പെട്ട് ഡോ. രാഘവൻ, ശ്രീമതി. പൊന്നമ്മ രാഘവൻ എന്നിവർ ബഹു. കേരള ഹൈക്കോടതി മുമ്പാകെ WP(C) No. 19497/2021 നമ്പരായി കേസ് ഫയൽ ചെയ്യുകയും ആയതിൽ ബഹു. കോടതി പുറപ്പെടുവിച്ച വിധിയുടെ അടിസ്ഥാനത്തിൽ, സംരക്ഷിത സ്റ്റാറകമായി പ്രഖ്യാപിക്കുന്നതു സംബന്ധിച്ച് സമർപ്പിച്ചിട്ടുള്ള ആക്ഷേപങ്ങളിന്മേൽ 05.04.2024 ൽ സർക്കാർ ഹിയറിംഗ് നടത്തുകയുണ്ടായി. തുടർന്ന് വലിയതമ്പുരാൻ കോവിലകം നിലനിൽക്കുന്ന സ്ഥലവുമായി ബന്ധപ്പെട്ട് ചില വിഷയങ്ങളിൽ എറണാകുളം ജില്ലാ കളക്ടറുടെ റിപ്പോർട്ട് ആവശ്യപ്പെട്ടിരുന്നു. എറണാകുളം ജില്ലാ കളക്ടറുടെ റിപ്പോർട്ടിന്മേലും ഹർജിക്കാരുടെ ആക്ഷേപങ്ങളിലും വിശദമായ റിപ്പോർട്ട് പുരാവസ്തു ഡയറക്ടറോട് ആവശ്യപ്പെട്ടിട്ടുണ്ട്.</p>
(ബി)	<p>'വലിയ തമ്പുരാൻ കോവിലകം' സംരക്ഷിത സ്റ്റാറകമാക്കുന്ന നടപടിക്രമങ്ങൾ തടസ്സപ്പെടുത്തിക്കൊണ്ട് ഏതെങ്കിലും കോടതി ഉത്തരവ് ഉണ്ടായിട്ടുണ്ടോ; ഉണ്ടെങ്കിൽ വിധിപ്പകർപ്പ് ലഭ്യമാക്കാമോ?</p>	(ബി)	<p>ഇതുമായി ബന്ധപ്പെട്ട് ഡോ. രാഘവൻ മുതൽപേർ ബഹു. ഹൈക്കോടതിയിൽ ഫയൽ ചെയ്ത WP(C) 19497/21 നമ്പറായ കേസിൽ പുറപ്പെടുവിച്ച വിധിയിൽ, പരാതിക്കാരുടെയും മറ്റുള്ളവരുടെയും ആക്ഷേപങ്ങൾ കേട്ട്, അന്തിമ വിജ്ഞാപനം പുറപ്പെടുവിക്കുന്ന കാര്യത്തിൽ 4 മാസത്തിനകം സർക്കാർ തീരുമാനം കൈക്കൊള്ളണം എന്നാണ്. ഉത്തരവിന്റെ പകർപ്പ് ഉള്ളടക്കം ചെയ്യുന്നു.</p>



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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 3RD DAY OF JANUARY 2024 / 13TH POUSHA, 1945

WP (C) NO. 19497 OF 2021

PETITIONERS:

- 1 DR. RAGHAVAN,
AGED 79 YEARS
S/O. RAMANKUTTY, SOUTH PALACE, NO. 11/391, PALACE ROAD,
KIZHAKKUMBHAGAM VILLAGE, ALUVA TALUK, PUTHIYIDOM,
KANJOOR, ERNAKULAM DISTRICT 682 575.
- 2 PONNAMMA RAGHAVAN,
AGED 71 YEARS
W/O. RAGHAVAN, SOUTH PALACE, NO. 11/319, PALACE ROAD,
KIZHAKKUMBHAGAM VILLAGE, ALUVA TALUK, PUTHIYIDOM, KANJOOR
ERNAKULAM DISTRICT 682 575.
BY ADVS.
V.N. SANKARJEE
V.N. MADHUSUDANAN
R. UDAYA JYOTHI
M.M. VINOD
M. SUSEELA
KEERTHI B. CHANDRAN
VIJAYAN PILLAI P.K.
C. PURUSHOTHAMAN NAIR
NITHEESH.M

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEPARTMENT OF CULTURAL
AFFAIRS, (KERALA), SUNDARAVILASAM, PALACE FORT P.O.
THIRUVANANTHAPURAM DISTRICT 695 023.
- 2 THE PRINCIPAL SECRETARY,
DEPARTMENT OF CULTURAL AFFAIRS, (KERALA), SUNDARAVILASAM,
PALACE FORT P.O., THIRUVANANTHAPURAM DISTRICT 695 023.
- 3 THE DIRECTOR OF ARCHAEOLOGY,
ARCHEOLOGICAL DEPARTMENT OF KERALA, SUNDARAVILASAM,
PALACE, FORT P.O., THIRUVANANTHAPURAM DISTRICT 695 023.
- 4 THE DISTRICT COLLECTOR,
ERNAKULAM, COLLECTORATE, KOCHI 682 030.
- 5 THE TAHSILDAR,

ROAD, PARIYAR NAGAR, 683 101.

6 THE VILLAGE OFFICER,
KIZHAKKUMBHAGAM VILLAGE, PUNTHIYIDOM, ALUVA TALUK,
ERNAKULAM DISTRICT 683 101.

7 ASHOKAN,
AGED 58 YEARS
S/O. EDATHADAN RAGHAVAN, EDATHADAN HOUSE, ALOOR VILLAGE
AND DESOM, MUKUNDAPURAM TALUK, THRISSUR DISTRICT 680 683.

8 MOHANAN,
AGED 55 YEARS
S/O. EDATHADAN RAGHAVAN, EDATHADAN HOUSE, ALOOR VILLAGE
AND DESOM, MUKUNDAPURAM TALUK, THRISSUR DISTRICT 680 683.

9 SALILA ALIAS SALITHA,
AGED 53 YEARS
W/O. MOHANAN, EDATHADAN HOUSE, ALOOR VILLAGE AND DESOM,
MUKUNDAPURAM TALUK, THRISSUR DISTRICT 680 683.

BY ADVS.
T.N.MANOJ

SRI. P.S.APPU, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

The petitioners say that they are owners of certain properties covered by Exts.P1 to P4 title documents and that, though the same or the constructions thereon, can never be brought within the ambit of the Kerala Ancient Monuments Archaeological sites and Remains Act, 1968 ("Act" for short), the Government of Kerala has now issued Ext.P7 notification invoking its provisions, with intent to declare some of the portions thereof as either ancient monuments or Archaeological sites.

2. The petitioners assert that Ext.P7 is untenable and illegal, which is manifest from Ext.R3 (a) recommendations made, wherein, it has been specifically found that the buildings in the property in question have been modified over

an ancient monument, as defined under Section 2 of the 'Act'.

3. Sri.V.N.Sankarjee - learned counsel for the petitioners, further explained his clients' case saying that, if one is to examine Ext.R5(a) report settled by the Superintending Archaeologist of Thiruvananthapuram, it would be rendered perspicuous that the afore facts are known to the said Authority also, but still, she made the impugned recommendation to treat the portion in question, namely that covered by Ext.P7, as an archaeological or historical site solely because, it is believed that it is where "Sakthan Thamburan" - the erstwhile King of the Princely State of Kochi - was born. He submitted that even this is disputed since, "Sakthan Thamburan" was not born in the area in question;



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but that even if it is so assumed for the sake of argument, it would still render it indubitable that the 'Act' cannot apply to any portion of the property, as has been now sought to be done through Ext.P7. He then added that his client is justified in having approached this Court also for the reason that the property in question is covered by Ext.P6 Act, namely the "Valiamma Thampuran Kovilakam Estate and the Palace Fund (Partition) Act, 1961" ("Valiamma Thampuran Act" for short), which he argued has an overriding effect over the 'Act' or any other statutes. He concluded saying that, in any manner of looking at it, Ext.P7 is untenable because, when the Superintending Archaeologist admits, in Ext.R5(a), that the property and the buildings thereon have evolved over the years, thus robbing it of all antiquity and archaeological

have been issued, pointing out that, as per Section 2 of the 'Act', is only buildings of over 100 years in age which can ever be brought within its ambit.

4. Sri. Manoj appearing for respondents 7, 8 and 9, submitted that they are the owners of some of the portions of the land involved in this case and that they are now facing great predicament because they are unable to use it in any manner, nor are they in a position to raise any monetary resources out of it. He explained that wife of one of his clients was suffering from cancer and in fact, succumbed to it subsequently, all because he was unable to provide for her treatment fully, but which he tried to do by availing loan from a Co-operative Bank. He submitted that the said Bank has now initiated



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action against the said person and therefore, that his clients have been left without any other option but to support Ext.P7, so that they may obtain statutory compensation, once the properties are dealt with, within the purview of the 'Act'.

5. Sri.P.S.Appu - learned Government Pleader, in response to the afore submissions of the petitioners and respondents 1 to 6, submitted that this writ petition is wholly unnecessary and in fact, an abuse of processes because, Ext.P7 is only a notice issued under Section 4 of the 'Act'. He submitted that, as is evident from the said notification itself, the petitioners, party respondents or any other interested person, could have made objections as to why the property or the buildings thereon, will not come within the sweep of the 'Act'; but asserted that no such

Authorities until now. He offered that, if, therefore, the petitioners or any other persons are interested in making such objections, it can be done even now, provided a time frame is fixed by this Court, so that the competent Authority of the Government can consider the same and decide whether a declaration as required under the 'Act' is deserving of being finally issued.

6. Though I have recorded the submissions of the parties and their contentions in some detail as afore, I am of the firm view that, it is premature for this Court to enter into the legal arena relating to the validity of Ext.P7 because, as rightly argued by the learned Government Pleader, it is only a notice issued under Section 4 of the 'Act' against which the petitioners, as also the party respondents or any one else,



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obtained necessary recourse by way of an opportunity to file objections.

7. The contentions of the petitioner, namely that "Valiamma Thampuran Act", will override the provisions of the Act, as also that Ext.R3(a) report would incapacitate any further declaration under the latter statute with respect to the property in question, are certainly matters that they can bring to the notice of the Government appropriately through their objections or such other statements.

8. I do not see any reason why this Court should interject the afore process, particularly when it is part of the statutory scheme; and in any event, the questions of facts, especially that the building in question is not ancient or liable to be protected under the Act, are ones which cannot be considered by this Court while

of India.

9. I am certain that, therefore, the Government must be given the liberty of considering all such objections before taking a final decision thereon; which they should obviously do, after hearing the objectors, including the petitioners.

In the afore circumstances, I allow this writ petition with the following directions:

a) I leave liberty to the petitioners, the party respondents or any other person who may be interested, of making their objections to Ext.P7 notice, which shall be done not later than two months from the date of receipt of a copy of this judgment.

b) The competent Authority of the



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Government, on receiving the objections of the petitioners and other parties as afore, will proceed to hear them and thus take a final decision, within the confines of the 'Act'; culminating in an appropriate order and necessary action thereon, as expeditiously as is possible, but not later than four months from the date of receipt of objections.

c) I clarify that I have not entered into the merits of any of the rival contentions of the parties, and hence the Government will consider all of them dispassionately, and their opinion on them reflected in the resultant order.

Sd/-

DEVAN RAMACHANDRAN**JUDGE**

SAS

PETITIONERS' EXHIBITS:

- Exhibit P1 TRUE COPY OF SALE DEED BEARING NUMBER 2225/1990 DATED 6.11.1990 ON THE FILE OF THE S.R.O. SREEMOOLANAGARAM.
- Exhibit P2 TRUE COPY OF SALE DEED BEARING NUMBER 595/1993 DATED 26.12.1992 ON THE FILE OF THE S.R.O. SREEMOOLANAGARAM.
- Exhibit P3 TRUE COPY OF SALE DEED BEARING NUMBER 2470/1993 DATED 16.9.1993 ON THE FILE OF THE S.R.O. SREEMOOLANAGARAM.
- Exhibit P4 TRUE COPY OF SALE DEED BEARING NUMBER 874/1/2018 DATED 7.4.2018 ON THE FILE OF THE S.R.O. SREEMOOLANAGARAM.
- Exhibit P5 TRUE COPY OF THE PARTITION DEED NO. 4029 DATED 9.11.1980 ON THE FILE OF THE S.R.O. TRIPUNITHURA (THE RELEVANT PAGES PAGE 1 TO 37, 60, 65, 78, 138 & 146-42 PAGES).
- Exhibit P6 TRUE COPY OF THE VALIAMMA THAMPURAM KOVILAKAM ESTATE AND THE PALACE FUND PARTITION ACT 1961).
- Exhibit P7 TRUE COPY OF G.O. (RT) NO. 101/2020 DATED 4.3.2020.
- Exhibit P8 TRUE COPY OF THE JUDGMENT DATED 18.11.2015 IN WPC NO. 27484/2012.
- Exhibit P9 TRUE COPY OF THE JUDGMENT DATED 9.7.2018 IN W.A. NO. 1329/2018 OF THIS HONOURABLE COURT.
- Exhibit P10 TRUE COPY OF THE COMMISSION REPROT DATED 18.2.1995 IN C.M.P. NO. 3935/1995 IN O.P. NO. 2165/1995.
- Exhibit P11 TRUE COPY OF THE JUDGMENT DATED 29.3.1995 IN O.P. NO. 17788/1994 AND O.P. NO. 2165/1995 OF THIS HONOURABLE COURT.

RESPONDENT EXHIBITS

- Exhibit R3 A A TRUE COPY OF THE REPORT DATED 30.08.2016 OF THEN SUPERINTENDING ARCHAEOLOGIST AND DOCUMENTATION OFFICER CARRIED OUT AN INSPECTION OF THE MONUMENT
- Exhibit R3 B A TRUE COPY OF THE LETTER DATED 05.10.2005 OF



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Exhibit R3 C

DISTRICT COLLECTOR, ERNAKULAM

A TRUE COPY OF THE REPORT OF THE DOCUMENTATION OFFICER DATED 22.06.2006

Exhibit R3 D

A COPY OF GOVERNMENT ORDER DATED 19.01.2017.

Exhibit R7(a)

TRUE COPY OF THE DECLARATION/ NOTICE DATED 10/10 /2023 ISSUED BY THE ALOOR SERVICE CO-OPERATIVE BANK