IN THE HIGH COURT OF JUDICATURE, KERALA [SPECIAL ORIGINAL JURISDICTION]

Writ Petition.(Civil).No.....of 2010

Association for Environment Protection.....Petitioner

Vs.

The Principal Conservator of Forests & Ors.....Respondents

SYNOPSIS

Preservation of environmental and ecological purity is the paramount duty of the State as a societal sanctuary defending people's healthy survival and preventing atmospheric pollution. Forgetting the age old principles, the Railway authorities have now proposed to cut about four big trees located in the Railway compound of Aluva Railway Station, even without getting mandatory sanction from the Forestry Department. Cutting of trees without any "absolute" necessity is cruelty to the nature. Trees are important carbon credit earners because of its ability to absorb green gases which adversely affect the many. In this era of Global warming and climate change, the indiscriminate felling of trees have severe effect on the environment of the country. The proposed cutting will definitely aggravate global warming which a statutory authority like the Railway would not have done. Compassion shown towards Nature always begets bounty from nature in plenty. A tree gives cool effect, which is equivalent to five air conditioners working for 20 hours, is considered as the natural airconditioner by the common man, which is the gift of God.

CHRONOLOGY OF EVENTS

Date	Event		
10 th February, 2010	Government of Kerala, Forest and Wildlife Department, G.O.(Rt)No. 68/2010/F&WLD, restraining the cutting of trees by any statutory authorities without obtaining written sanction.		
14 th March, 2010	Representation made by the petitioner to the 3 rd respondent to forbear from cutting and removing trees from the Railway Compound.		

Counsel for the Petitioner

IN THE HIGH COURT OF JUDICATURE, KERALA [SPECIAL ORIGINAL JURISDICTION]

WRIT PETITION (CIVIL).No.....of 2010

BETWEEN

PETITIONER:

Association for Environment Protection, Represented by its Secretary, Dr.S.Seetharaman, High Road, Aluva-683 104. Kerala.

AND

RESPONDENTS:

- 1. Principal Chief Conservator of Forests, Forest and Wild Life Department, Forest Headquarters, Vazhuthacaud, Thiruvananthapuram 695014.Kerala.
- 2. Assistant Conservator of Forests, (SF), Manimala Road, Edappally P.O., Ernakulam, Cochin 682 024.Kerala.
- 3. The Divisional Manager (Works), Southern Railway, Southern Railway, Thiruvananthapuram.

All process to the petitioner be served on their counsel Shri.P.B.SAHASRANAMAN, T.S.HARIKUMAR, & K.JAGADEESH Advocates, Sahasram Associates, Chittoor Road, Ernakulam, Cochin-682011.

All process to the respondents be sent on their above addresses or on their advocates, if any engaged.

WRIT PETITION FILED UNDER ARTICLE. 226 OF THE CONSTITUTION OF INDIA.

Statement of Facts.

The petitioner above named states as follows:

- The petitioner is an organisation engaged in protecting the environment and ecology of the State. This writ petition is filed in public interest against the proposed, indiscriminate cutting of shady trees in the Railway Compound of Aluva Railway Station, in Ernakulam District, which is contrary to the endeavours of tree conservation, internationally accepted.
- 2. The Railway Station at Aluva is located in the heart of the Aluva Municipality area where lakhs of people move during day and night. There were about ten trees in the said railway compound which was providing shades to the many and was keeping the atmosphere cool. Under the guise of development, many of them were already cut and now only a few remains. Some photographs of the tree standing in the Railway Station , Aluva, are produced herewith and marked as **Exhibit.P.1.**
- 3. The trees provide shade, and gives our oxygen, which makes the atmosphere cool and keeps a better environment. The indiscriminate cutting of trees have a severe impact on the atmosphere of the area. The Government of Kerala considering the importance of the same and larger impact of the said cutting, has taken a decision on 10th February, 2010 to make suitable amendment to the Kerala Promotion of Tree Growth in Non-Forest Areas) Act .The authority in charge of the property where the trees stands has to submit an application to them and they will decide as to the steps taken, including the planting of saplings of tree species in the same or nearby locality. A true copy of the said order issued by the Government of Kerala, Forest and Wildlife Department, G.O.(Rt)No. 68/2010/F&WLD, dated 10th February, 2010 is produced herewith and marked as **Exhibit.P.2.**
- 4. The 3rd respondent who is in charge of all the Railway properties and works has now decided to cut and remove about four number of big trees which are now standing in the Railway Station, at Aluva. The reason is stated to be for the construction of shelters to the vehicles being parked by the commuters of railway. On an enquiry made by the petitioner with the respondents 1 and 2 it is understood that no application was

- submitted, by the 3rd respondent or any Railway officials, before the respondents 1 and 2 seeking sanction for cutting and removing the trees in the Railway compound at the Railway Station, Aluva.
- 5. It is respectfully submitted that the cutting of more trees by the Railway from their compound of Railway Station, Aluva will have severe ramification on the environment of the area, especially in this summer season where the temperature has gone to the maximum in this state. This petitioner has sent a representation to the 3rd respondent pointing out all these infirmities on 14th March, 2010.A true photostat copy of the said representation filed by the petitioner before the 3rd respondent, dated 14th March, 2010 is produced herewith and marked as **Exhibit.P.3.**
- **6.** Pursuant to the representation submitted by the petitioner before the 2nd respondent, the 2nd respondent has issue a letter to the 3rd respondent, to comply with the Ext.P.2 Government Order and make an application for cutting of the trees. A true photostat copy of the said letter issued by the 2nd respondent to the 3rd respondent dated 16-3-2010 is produced herewith and marked as **Exhibit P.4.**
- 7. The 3rd respondent has already invited tenders and decided to take steps to cut the trees in the Railway compound at Aluva. If the said trees are cut it will adversely affect the lakhs of people who are enjoying the benefit of the shade, especially at this summer. Therefore in these circumstances in public interest this petitioner has no other remedy than to invoke this Court's extraordinary jurisdiction under Article.226 of the Constitution of India on the following among other grounds:

M GROUNDS

- A. The present proposal to cut trees is contrary to the constitutional duty enshrined under Arts. 48A and 51A (g).
- B. Exhibit.P.2 order has been issued in accordance with constitutional duty enshrined under Art.48 A and the Railways are bound to comply with the same.
- C. Trees are considered as sacred from time immemorial. It give pure oxygen, the necessity for life. It absorbs carbon dioxide, which is harmful to the animals and men. It is because of the said reason trees are considered as important in this age of climate change. The

importance of the trees has been ignored by the Railways when they took a decision to cut the trees.

D. The Railway Parking area can be easily developed even without the cutting of trees. The balance of equity and convenience is in favour of conserving the trees.

E. There is no other vegetation which provides shade and fresh cool air, in the whole town of Aluva. The conservation of such trees are very much important.

For the reasons set out above and in the affidavit filed herewith the petitioner prays that the following :

RELIEFS

i. To issue a writ, direction or order in the nature of mandamus commanding the 3rd respondent forbearing them from cutting and removing the trees from the Railway compound at Aluva Railway Station;

ii. To issue a writ, direction or order in the nature of mandamus commanding the respondents 1 and 2 to take immediate steps against the 3rd respondent from cutting and removing trees from the Railway Compound at Aluva Railway Station.

iii. To issue a writ, direction or order in the nature of mandamus which his Hon'ble Court deems fit and necessary in the circumstances of the case for the effective implementation of the conditions imposed by Exhibit.P.2 circular including the constitution of a Committee as contemplated for the Aluva Municipality

Court Fees paid under the Kerala Court Fees and Suits Valuation Act. Schedule-II, Art-(I)11 (I)(2)(iii)..Rs.100/-

Dated this the 9 January 2023

Counsel for the Petitioner

Petitioner.

INTERIM RELIEF

For the reasons stated in the writ petition and the accompanying affidavit it is humbly prayed that this Hon'ble Court be pleased to pass an interim order restraining the 3rd respondent and other personnel under him from cutting and removing any trees from the Railway Compound of Aluva Railway Station, pending the disposal of the above writ petition.

Dated this the 9 January 2023

COUNSEL FOR THE PETITIONER

IN THE HIGH COURT OF JUDICATURE, KERALA [SPECIAL ORIGINAL JURISDICTION] Writ Petition.(Civil).No.....of 2010

Association for Environment Protection	Petitioner
Vs.	
State of Kerala & Ors	Respondents

- I, Prof S. Seetharaman aged 64 years, S/o. Sankara Narayana Iyer, Secretary, Association for Environment Protection Reg.No.E-249/86, High Road, Aluva -863101, Ernakulam District, do hereby solemnly affirm and state as follows:-
- 1. I am the Secretary of the petitioner organisation in the above case. I know the facts of this case and duly authorized to swear this affidavit on behalf of the petitioner.
- 2. The accompanying writ petition is prepared by my counsel on my instructions. I have gone through the petition and state that the facts stated therein are true and correct to the best of my knowledge and belief. I also declare that I have not filed any petition seeking similar relief's in respect of this cause of action.
- 3. The Exhibits produced along with the writ petition are true copies which has been provided by me to my counsel. If the interim prayer as prayed for it not granted the public interest will suffer and will be put to irreparable loss and injury.

What is stated above are true and correct to the best of my knowledge, information and belief.

Dated this the 9 January 2023

Deponent:

Solemnly affirmed and signed before me by the deponent who is personally known to me at Ernakulam on this the 9 January 2023

K.JAGADEESH ADVOCATE ERNAKULAM

IN THE HIGH COURT OF JUDICATURE, KERALA [SPECIAL ORIGINAL JURISDICTION]

Writ Petition.(Civil).No	of 2010
Association for Environment Protection	Petitioner
Vs.	
State of Kerala & Ors	Respondents

INDEX 🛄

SI No.	Particulars	Pages
1	Synopsis	1
3	Writ petition	2-5
4	Affidavit	6
5	Exhibit.P.1.	7-8
6	Exhibit.P.2	9

Dated this the 9 January 2023

Counsel for the petitioner

Presented on: 23RD March 2010

PROPOSAL TO CUT TREES FROM RAILWAY COMPOUND - NO OTHER VEGETATION IN THE CITY -MANDATORY REQUISTE TO OBTAIN SANCTION FROM SOCIAL FORESTY DEPARTEMENT VIOLATED - PUBLIC INTEREST LITIGATION.

IN THE HONOURABLE HIGH COURT OF KERALA

At Ernakulam.

WRIT PETITION (CIVIL) .Noof 2010	
Petitioner	
VS	
State of Kerala and othersRespondent	ts

WRIT PETITION FILED UNDER ART. 226 OF THE CONSTITUTION OF INDIA

COURT FEES PAID RS.100/-

Counsel for the Petitioner

P.B.SAHASRANAMAN [S-34]

T.S.HARIKUMAR [H-60]

&

K.JAGADEESH [J-451]

Advocates

No.E3-431/10

Office of the Asst. Forest Conservator Social Forestry Division, Ernakulam Manimala Road, Edappally P.O Ph-0484 2344761

Email: acf-sf-

ernakulam@forest.kerala.gov.in

Date:16-03-10

R.Sujith Asst.Conservator.

Superintendent Aluva Railway Station Aluva.

Sir,

Sub: Regarding sanction for cutting trees in public places.

Ref: 1) Letter No.GOP 85/86/F&WLD dated 2-9-86.

- 2) Letter No.GO(RT)68/2010/F&WLD dated 10-2-2010.
- 3) Complaint dated 15-3-2010 made by an environmentalist of Aluva.

The Government Orders referred as Nos.1 and 3 is send herewith. Complaint has been made by an environmentalist from Aluva that steps have been taken to cut and remove the trees standing in the Aluva Railway station compound. As per the GO referred as 2nd above, sanction has to be obtained from the Assistant Conservator of Forests (Social Forestry) of the District for the cutting and removing the trees in public places. The Survey and location sketch has to be placed along with the application for sanction for cutting of the trees. If the tree is standing in a Municipal area, a committee consisting of the Municipal Chairperson and Assistant Conservator of Forest(Social Forestry) has to inspect the tree and take a decision to cut the trees as stipulated in GO referred as 2nd above. Therefore you are informed that if trees have to be cut in the railway land under your control, an application has to be submitted to this office as per the Government order.

Yours faithfully,

Asst. Conservator of Forests.

Copy to Area Manager, Southern Railway, Ernakulam South, Ernakulam for information, is being send.

This is the true English translation of Ext.4 produced and marked in the writ petition.

Advocate.