

SUPREME COURT OF INDIA

State of Kerala

Vs.

Pullangode Rubber and Produce Co.

(B Kirpal and U C Banerjee JJ.)

13.04.1999

ORDER

B.N. KIRPAL, J.

1. The question involved in these cases is whether some areas which are within the rubber plantation of the respondent companies fall within the provisions of the Kerala Private Forest (Vesting and Assignment) Act, 1971.

2. According to Section 2(f)(1)(i) of the Act any land to which the Madras Preservation of Private Forest Act, 1949 (for short "the MPPF Act") applies immediately before the appointed date i.e. 10-5-1971, would be regarded as a private forest. Section 1 of the MPPF Act, 1949 states that the said Act applies, inter alia, to the private forest in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres. An explanation which has been added to the said section provides that:

Nothing in this clause shall be deemed to apply to any land which was brought under fugitive or other cultivation prior to 14-12-1949, by an owner or any person claiming under him.

3. The contention on behalf of the appellant is that by virtue of the said explanation the rubber plantation is excluded from the operation of the 1949 Act and, therefore, it automatically gets excluded from the provisions of the Vesting Act, 1971.

4. In support of its contention that a cultivated plantation is excluded from the operation of the 1949 Act, the learned counsel drew our attention to the case of Bhavani Tea and Produce Co. Ltd. v. State of Kerala wherein dealing with a case relating to the vesting of private forest under the 1971 Vesting Act the Court also referred to the MPPF Act, 1949. The observations in the said case seem to

indicate that plantations of trees which are cultivated would not be covered by the 1949 Act and, therefore, the Vesting Act would also not apply.

5. The MPPF Act, 1949 was enacted with a view to prevent destruction of private forest. The said Act contains an exclusive definition of forest in Section 2(a) which reads as under:

2. (a) 'forest' includes waste or communal land containing trees and shrubs, pasture land and any other class of land declared by the State Government to be a forest by notification in the Kerala Government Gazette.

6. To our mind forest means a parcel of land on which trees have been grown. This Court in T.N. Godavarman Thirumulkpad v. Union of India observed that the word "forest" must be understood according to its dictionary meaning. It would, thus, appear that the rubber plantation containing rubber trees, would be regarded as a private forest the destruction of which was sought to be prohibited by the 1949 Act. The explanation to Section 1(2)(i) which provides that the clause will not apply to "fugitive or other cultivation" would not take within its ambit the growing of rubber or other trees.

7. The Court in Bhavani Tea Co. case did not consider the object for which the 1949 Act was enacted, namely, with a view to prevent the destruction of private forest. If cultivated forest were excluded from the operation of the 1949 Act the Whole object of enacting of the said Act would be defeated.

8. In our opinion the decision in Bhavani Tea Co. case with regard to this aspect requires reconsideration by a larger Bench. We, therefore, direct that the papers of these cases be placed before Hon'ble the Chief Justice of India for constituting a larger Bench to hear these matters.