

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
(SOUTHERN ZONE BENCH, CHENNAI)  
IN  
ORIGINAL APPLICATION NO. 10 OF 2021 (SZ)**

**ADDITIONAL REPORT SUBMITTED BY THE 3<sup>RD</sup> RESPONDENT / THE  
CHIEF CONSERVATOR OF FORESTS, CENTRAL CIRCLE, THRISSUR FOR  
THE FOREST DEPARTMENT TO THE REPORT OF JOINT COMMITTEE  
APPOINTED BY THE HON'BLE NATIONAL GREEN TRIBUNAL**

**Index**

<b>S.NO</b>	<b>PARTICULARS</b>	<b>PAGES</b>
1	Affidavit Filed Before the Hon'ble National Green Tribunal, Southern Zone Chennai	1-5
2	Additional Report Submitted By The 3rd Respondent / The Chief Conservator Of Forests, Central Circle, Thrissur For The Forest Department To The Report Of Joint Committee Appointed By The Hon'ble National Green Tribunal	6-8

Dated at Chennai on this the 27<sup>th</sup> day of September 2021.

**M/s. E.K.KUMARESAN**

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench

1

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE,  
CHENNAI  
OA No. 10/2021**

IN THE MATTER OF :

Phinto P.A, Thrissur District : Applicant(s)

Vs.

Union of India and others : Respondent(s)

**AFFIDAVIT FILED BEFORE THE HONOURABLE NATIONAL GREEN  
TRIBUNAL, SOUTHERN ZONE CHENNAI**

I, Deepa K S, D/o. K R Sasidharan, aged 37 years, residing at 'Damodghar',  
AGRA -18, Kcorkenchery, Thrissur, Kerala, do hereby solemnly affirm and sincerely  
state as follows:

1. I am presently working as the Chief Conservator of Forests, Central Circle,  
Thrissur, and I am member of the Joint Committee constituted through the  
direction of this Honourable Tribunal in the above case. I am conversant with the  
facts of the case as disclosed from the relevant records and I am competent to  
swear to this affidavit.

2. In the matter of Joint committee report filed in the above case, it is submitted  
that the Forest Department is neither re-tracking nor redrafting its stand in the Joint  
Committee Report already filed before this Honourable Tribunal. The Forest  
Department only wishes to bring to the notice of this Honourable Tribunal the

*Deepa*

following additional facts as to the stand of the Forest Department which may be added to the report submitted.

3. Though factually, the patta was issued in the form as per Kerala Land Assignment Rules 1964, the subject matter land being forest land assigned for cultivation, the pattas should be treated as one issued under Arable Forest Assignment Rules 1970 not as per the Kerala Land Assignment Rules, 1964 since the land involved was forest land and 1970 rules were in existence at time of issuance of patta.

4. In the case of the same land, the State has already taken a stand in the case of ***Peter v. Union of India*** [2020 (4) KLT 832] [WP(C) No. 24806/2019] before the Honourable High Court of Kerala that the assignment of land in the present case was under the provisions of the Arable Forest Assignment Rules, 1970, which has been issued under the Kerala Government Land Assignment Act, 1960 and that the reference to Rule 9(2) of the Kerala Land Assignment Rules 1964 was an inadvertent error or the wrong use of forms by the officials concerned.

5. The above said stand of the State has been accepted, approved and relied on by the Honourable High Court in the judgment dated 06.08.2020 in ***Peter v. Union of India*** [2020 (4) KLT 832] by observing as follows:

*"In view of the fact that the Arable Forest Assignment Rules, 1970 were already in place as on the date of issuance of pattayams referred to above it is clear that these pattayams which have been issued in January, February and March of 1980 will have to be taken as one under the Arable Forest Assignment Rules, 1970 and not an assignment in terms of the Kerala Land Assignment Rules of 1964. The mention of the 1964 Rules can only be taken as a wrong quoting of the relevant provisions."*



6. The above said stand of the State which was accepted by the Honourable High Court was inadvertently omitted to be mentioned and not added in the report and therefore the said stand of the State and the above said decision of the Honourable High Court accepting the said stand of the State may be added to the report of the committee on behalf of the Forest Department.

7. Section 3 of the Arable Forest Land Assignment Rules, 1970 is "**Purpose for which lands may be assigned.**-*Arable forest lands may be assigned on registry for purposes of personnel cultivation or for house sites or for both or for cultivation on cooperative basis wherever such cultivation is possible.*"

8. The conditions of the patta (Form No.6) issued under the Arable Forest Land Rules, 1970 are as follows;

- 1) *The full right over all the trees within the grant and specified in the schedule vests in the Government and the assignee is bound to take care of all such trees standing on the land at the time of assignment or that may come into existence subsequent to it.*
- 2) *The assignee is bound to afford all facilities to the officers of Government in the matter of inspecting the land periodically for checking the trees referred to in condition (1) above and removing them, if necessary.*
- 3) *Except as provided in sub-rule 2 and 3 of Rule 7 alienation of land is strictly prohibited for a period of 48(twelve years) from the date of occupation or date of registry thereof whichever is later. In the event of such alienation, it will be open to the Government to resume the land without payment of any compensation.*
- 4) *All established rights of way and other easement rights shall be respected by the assignee.*



- 5) *The land revenue or any tax or fee levied in lieu thereof on the land will be liable to revision.*
- 6) *The assignee shall become a member of the co-operative society which will undertake farming on co-operative basis on the land assigned.*
- 7) *In the case of concessional grant to members of Scheduled Castes or Tribes and indigent families, if the land is at any time brought to sale under the Revenue Recovery Act for the time being in force for arrears of revenue due from the grantee, no fresh grants of land will be made to the grantee under the concessional terms*

9. Arable Forest Land Assignment Rules 1970, is made in exercise of the powers conferred by section 7 of the Kerala Land Assignment Act 1960. The assignment in the present case is under the Arable Forest Land Assignment Rules 1970. So there is no provision for allowing quarry activity in the subject matter land and the assignment of land is only for use of the land by the assignee for cultivation or house site and not for any commercial activity. Since the land assigned is forest land which is assigned for a specific purpose and public trust is involved, it is a covenant which runs with the assigned land as held in various decisions of the Honourable High Court. Moreover, the reserve forest land is not de-reserved through notification under Section 26 of the Kerala Forest Act, 1961. Consequently the land continues to have reserve forest status and the land is so recorded as reserve forest land in the working plan approved by the Ministry of Environment, Forest and Climate Change, Government of India and in Government records. Hence non-forestry activity cannot be undertaken in the said land without obtaining Forest Clearance under section 2 of Forest Conservation Act, 1980.

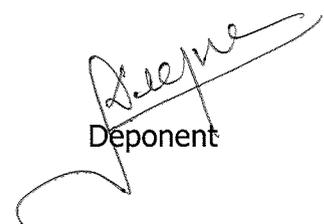
10. It is humbly prayed that the accompanying report dated 16.08.2021 of the Chief Conservator of Forests, Central Circle, Thrissur, containing the above additional facts may be accepted as additional report of the Forest Department to



the report dated 5/8/21 submitted by the Joint Committee constituted through the direction of this Honourable Tribunal in the above case in the interest of justice or else there will be irreparable injury to the parties. A separate petition for the same is filed herewith, which may kindly be allowed to secure the ends of justice.

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

Dated this the 16<sup>th</sup> day of August, 2021.

  
Deponent

Solemnly affirmed and signed before me by the deponent whom I know on the 16<sup>th</sup> day of August, 2021 at the office of the

6

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE,  
CHENNAI**

OA No. 10/2021

IN THE MATTER OF:

Phinto P.A, Thrissur District : Applicant(s)

Vs.

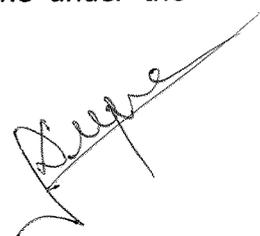
Union of India and others : Respondent(s)

ADDITIONAL REPORT SUBMITTED BY THE CHIEF CONSERVATOR OF FORESTS,  
CENTRAL CIRCLE, THRISSUR FOR THE FOREST DEPARTMENT TO THE REPORT OF  
THE JOINT COMMITTEE APPOINTED BY THE HONOURABLE NATIONAL GREEN  
TRIBUNAL

1. The State has already taken a stand in the case of the same land in ***Peter v. Union of India*** [2020 (4) KLT 832] [WP(C) No. 24806/2019] before the Honourable High Court of Kerala that the assignment of land in the present case was under the provisions of the Arable Forest Assignment Rules, 1970, which has been issued under the Kerala Government Land Assignment Act, 1960 and that the reference to Rule 9(2) of the Kerala Land Assignment Rules 1964 was an inadvertent error or the wrong use of forms by the officials concerned.

2. The above said stand of the State has been accepted, approved and relied on by the Honourable High Court in the judgment dated 06.08.2020 in ***Peter v. Union of India*** [2020 (4) KLT 832] by observing as follows:

*"In view of the fact that the Arable Forest Assignment Rules, 1970 were already in place as on the date of issuance of pattayams referred to above it is clear that these pattayams which have been issued in January, February and March of 1980 will have to be taken as one under the*



T

*Arable Forest Assignment Rules, 1970 and not an assignment in terms of the Kerala Land Assignment Rules of 1964. The mention of the 1964 Rules can only be taken as a wrong quoting of the relevant provisions."*

3. Section 3 of the Arable Forest Land Assignment Rules, 1970 is "**Purpose for which lands may be assigned.**-*Arable forest lands may be assigned on registry for purposes of personnel cultivation or for house sites or for both or for cultivation on cooperative basis wherever such cultivation is possible."*

4. The conditions of the patta (Form No.6) issued under the Arable Forest Land Rules, 1970 are as follows;

- 1) *The full right over all the trees within the grant and specified in the schedule vests in the Government and the assignee is bound to take care of all such trees standing on the land at the time of assignment or that may come into existence subsequent to it.*
- 2) *The assignee is bound to afford all facilities to the officers of Government in the matter of inspecting the land periodically for checking the trees referred to in condition (1) above and removing them, if necessary.*
- 3) *Except as provided in sub-rule 2 and 3 of Rule 7 alienation of land is strictly prohibited for a period of 48 (twelve years) from the date of occupation or date of registry thereof whichever is later. In the event of such alienation, it will be open to the Government to resume the land without payment of any compensation.*
- 4) *All established rights of way and other easement rights shall be respected by the assignee.*
- 5) *The land revenue or any tax or fee levied in lieu thereof on the land will be liable to revision.*

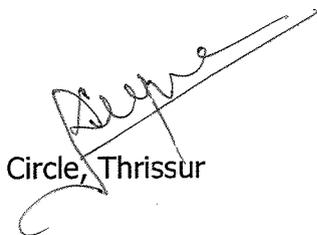
*Signature*

- 6) *In the case of concessional grant to members of Scheduled Castes or Tribes and indigent families, if the land is at any time brought to sale under the Revenue Recovery Act for the time being in force for arrears of revenue due from the grantee, no fresh grants of land will be made to the grantee under the concessional terms.*
- 7) *The assignee shall become a member of the co-operative society which will undertake farming on co-operative basis on the land assigned.*

5. Arable Forest Land Assignment Rules 1970, is made in exercise of the powers conferred by section 7 of the Kerala Land Assignment Act 1960. The assignment in the present case is under the Arable Forest Land Assignment Rules 1970. So there is no provision for allowing quarry activity in the subject matter land and the assignment of land is only for use of the land by the assignee for cultivation or house site and not for any commercial activity. Since the land assigned is forest land assigned for a specific purpose and public trust is involved, it is a covenant which runs with the assigned land. Moreover, the land in the present case is not de-reserved through notification under Section 26 of the Kerala Forest Act, 1961. Consequently the land continues to have reserve forest status and the land is so recorded as reserve forest land in the working plan approved by the Ministry of Environment, Forest and Climate Change, Government of India and in Government records. Hence non-forestry activity cannot be undertaken in the said land without obtaining Forest Clearance under section 2 of Forest Conservation Act, 1980.

Dated this the 16<sup>th</sup> day of August, 2021.

Chief Conservator of Forests, Central Circle, Thrissur



**BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL  
(SOUTHERN ZONE BENCH,  
CHENNAI)**

OA No. 10 of 2021 (SZ)

IN THE MATTER OF:

Phinto P. A

Thrissur District and another.

...Applicant(s)

Versus

The Union of India and others.

....Respondent(s)

**Additional Report Submitted By  
The 3rd Respondent / The Chief  
Conservator Of Forests, Central  
Circle, Thrissur For The Forest  
Department To The Report Of  
Joint Committee Appointed By  
The Hon'ble National Green  
Tribunal**

**M/s. E.K.KUMARESAN**

Standing counsel for Kerala(SZ)

Counsel for R2 to R5