

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

Monday, the 24th day of February 2025 / 5th Phalguna, 1946

WP(C) NO. 44723 OF 2024

PETITIONERS:

1. SANTHOSH.K.K., AGED 56 YEARS, S/O KUMARAN, KARUVANTHODI HOUSE, NAYATTUKUNDU, P.O. CHOCKANA, THRISSUR, PIN - 680699
2. SASI.K.K., AGED 53 YEARS, S/O KUMARAN, KARUVANTHODI HOUSE, NAYATTUKUNDU PO, CHOCKANA, THRISSUR, PIN - 680699
3. ARUMUGAN K.S., AGED 55 YEARS, S/O SUBRAN, KARUVANTHODI HOUSE, NAYATTUKUNDU PO, CHOCKANA, THRISSUR, PIN - 680699
4. SIMON K.V ,AGED 56 YEARS , S/O VARGHESE, KANNAYI HOUSE, NAYATTUKUNDU PO, CHOCKANA, THRISSUR, PIN - 680699
5. PAULY C.T. ,AGED 51 YEARS, CHERANGADAN HOUSE, NAYATTUKUNDU PO, NAYATTUKUNDU, THRISSUR, PIN - 680699
6. MUHAMMED ALY.K.K, AGED 48 YEARS, S/O KUNHIKADHAR, KOZHAPA HOUSE, NAYATTUKUNDU PO, CHOCKANA, THRISSUR , PIN - 680699
7. JOY P.T, AGED 52 YEARS, S/O THOMAS, PANACHIKKAL HOUSE, KODALY PO, KODALY, THRISSUR, PIN - 680684
8. KUNJUMHAMMED K.M, AGED 51 YEARS , S/O MOIDEENKUTTY, KOLLERI HOUSE, PALAPILLY PO, KUNDAI, THRISSUR, PIN - 680684
9. SYAMNADH P.D., AGED 35 YEARS, S/O DAMODARAN, POOKKADAN HOUSE, CHEMBUCHIRA PO, NOOLUVALLY, THRISSUR, PIN - 680684
10. YOOSAF T.A., AGED 45 YEARS , S/O ABU, THAAVIYIL HOUSE, PALAPPILLY PO, KUNDAI, THRISSUR , PIN - 680684
11. SAFIYA ,AGED 54 YEARS , W/O ZAKEER, KILIYAMMANNIL HOUSE, MUPLY, MURIKINGAL PO, VTC: MATTATHUR, THRISSUR , PIN - 680699

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, FOREST AND WILD LIFE DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM , PIN - 695001
2. THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS AND HEAD OF FOREST FORCE, FOREST HEADQUARTERS, VAZHUTHACAUD, THIRUVANANTHAPURAM , PIN - 695014
3. CHIEF CONSERVATOR OF FORESTS, CENTRAL CIRCLE, VANAPRIYA FOREST COMPLEX, PARAVATTANI, THRISSUR, PIN - 680005
4. THE DIVISIONAL FOREST OFFICER, OFFICE OF THE D.F.O, FOREST DIVISION, CHALAKUDY, THRISSUR DISTRICT, PIN - 680001
5. THE DISTRICT COLLECTOR, COLLECTORATE, CIVIL STATION, THRISSUR, PIN - 680001
6. THE KERALA STATE DISASTER MANAGEMENT AUTHORITY, OBSERVATORY HILLS, VIKAS BHAVAN, THIRUVANANTHAPURAM, REPRESENTED BY ITS COMMISSIONER, PIN - 695003
7. HARRISONS MALAYALAM LTD, KUNDAI ESTATE, PALAPPILLY PO, ALAGAPPA NAGAR (VIA), THRISSUR DISTRICT, REPRESENTED BY ITS MANAGER, PIN - 680304

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 pass an order directing the respondents 1 to 4 to take urgent necessary steps to protect the lives of petitioners and their families and also the other workers of the 7th respondent from the threat of wild elephants and other wild animals, pending disposal of the above Writ Petition (Civil).

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of SRI. R.RAMADAS, Advocate for the petitioners, and of GOVERNMENT PLEADER for R1 to R6, M/S. GOPIKRISHNAN NAMBIAR M, K.JOHN MATHAI, JOSON MANAVALAN, KURYAN THOMAS, PAULOSE C. ABRAHAM, RAJA KANNAN Advocates for the 7th respondent and of SRI. M.P. MADHAVANKUTTY AND SRI. LIJI VADAKKEDOM AMICI CURIAE, the court passed the following:



C.S.DIAS, J.

**WP(C) Nos.32407, 44723
& 46215 of 2024**

Dated this the 24th day of February, 2025

COMMON ORDER

The people of the State woke up with the distressing news that last night, a septuagenarian tribal couple was trampled to death by a wild elephant at the Aralam farm in Kannur. It's disheartening to hear about such fatalities and injuries in the State regularly. Human life is invaluable. Words of consolation or payment of compensation are not a panacea for the legal heirs of the deceased victims to navigate the devastating loss. The inhabitants in the high ranges and forest regions are put in fear of death due to the persistent threat posed by wild animals, which is an infringement of their fundamental right to life. This Court cannot remain passive to the issue. It has become incumbent upon this Court to direct the Authorities to take prompt and immediate steps to find a lasting solution to this pressing concern.

2. W.P.(C) Nos.32407 and 44723 of 2024 are filed, *inter alia*, to direct the State and its authorities to take adequate measures to control the human-animal conflicts in the State by constructing appropriate elephant-proof trenches, rubble walls, crash guard rope fencing and other suitable barriers in the wild animal attack prone areas at the earliest.

3. W.P.(C) No.46215 of 2024 is filed to direct the Ministry of Environment, Forests and Climate Change to pay the petitioner compensation under Ext.P5 scheme due to his father's death in a wild elephant attack on 12.06.2022. It is contended that as per Exts.P4 and P5 schemes, the State and the Central governments are liable for paying the petitioner compensation. It is also contended that as per Ext.P10 order, human-animal conflict is now considered and processed as a State Specific Disaster under the Disaster Management Act. As per the Ext.P15 answer given in the Rajya Sabha on 21.12.2023, 555 people lost their lives in the State between 2019 and 2024. Therefore, an efficacious and

transparent process and a Special Forum or Tribunal may be set up to decide claims of the above nature.

4. Heard; the learned Counsel for the petitioners and the learned Special Government Pleader. The learned Special Government Pleader prayed for time to file counter affidavits in the above cases.

5. In **Joseph Tajet v. State of Kerala and others** (2022: KER: 50543), the Division Bench of this Court had directed the State to take adequate measures to implement the Guidelines bearing F.No.1/2016-PE dated 06.10.2017 of the Project Elephant Division of the Ministry of Environment, Forest and Climate Change.

6. Despite the various directions passed by this Court and guidelines issued by the Government, the problem continues unabated. The alarming statistics of 555 fatalities in the State resulting from wild animal attacks during the last six years are shocking. This Court has also been informed that despite administrative sanction being granted to build protective walls using the Schedule Tribe fund, the project has not progressed.

7. Considering the gravity of the matter and to ensure that adequate measures are implemented as undertaken by the Government in **Joseph Tajet's case**, this Court *suo motu* impleads the (i) Secretary to the Ministry of Environment and Forest and Climatic Control, Government of India; (ii) Chief Secretary, Government of Kerala; (iii) Principal Secretary, Revenue Department, Government of Kerala and (iv) Member Secretary, Kerala State Legal Services Authority as additional respondents in W.P.(C)No.32407 of 20204. The Registry is directed to carry out the impleadment in the writ petition.

8. The learned DSGI takes notice for the Secretary to the Ministry of Environment and Forest and Climatic Control, the learned Government Pleader takes notice for the Chief Secretary and the Principal Secretary, Revenue Department, Government of Kerala and Smt.Krishna takes notice for the Kerala State Legal Services Authority.

9. The Secretary to the Ministry of Environment and Forest and Climatic Control, Government of India and the Chief Secretary, Government of Kerala, are directed to file

their counter affidavits in the writ petitions before the next posting date. The Chief Secretary shall specifically state the measures adopted by the State after the passing of the judgment in **Joseph Tajet's case**. The Member Secretary of the Kerala State Legal Services Authority shall coordinate with the District Legal Services Authorities and the Taluk Legal Services Authorities and conduct a survey of the grievances and suggestions of the people of the affected areas in the State and bring to their attention the compensation schemes of the Central and State Governments and file their reports before the next posting date. In order to render necessary assistance to this Court, I appoint Sri.M.P.Madhavankutty and Sri.Liji Vadakkedam as Amici Curiae. The Registry shall furnish copies of the writ petitions to the learned Amici Curiae.

Post on 24.03.2025.

Sd/- C.S.DIAS, JUDGE

rkc/24.02.2025