Supreme Court of India
K.M.S Ubaida And Anr vs State Of Kerala & Anr on 25 March, 1998
Bench: G.N. Ray, G.B. Pattanaik

PETITIONER:
K.M.S UBAIDA AND ANR.

Vs.

RESPONDENT:
STATE OF KERALA & ANR

DATE OF JUDGMENT: 25/03/1998

BENCH:
G.N. RAY, G.B. PATTANAIK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R This appeal arises out of the leave granted by the Kerala High Court by order dated January 12, 1984 in M.F.A.No.338/1978. The short question that arises for decision of this Court is whether the land where systematic teak plantation is not natural one, will be exempted from the purview of private forests under the Kerala Private Forests (Vesting and Assignment) Act, 1971. It appears that under Section 2 of the said Act, unless the context otherwise requires, the private forest means in relation to Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956, any land to which the Madras Preservation of Private Forests Act, 1949 applied to the lands in question immediately before the appointed day. But certain lands have been excluded from the definition of Private Forests under the Kerala Act and Clause (C) of sub-section (2) (1) (F) is relevant for our consideration. Clause (C) contains that when lands are principally cultivated with cashew or other fruit-bearing trees or are principally cultivated with any other agricultural crop will be exempted from the purview of private forests under the Kerala act.

Mr.Iyer, the learned senior counsel appearing for the appellants contended that Clause (C) exempts not only cashew or other fruit bearing trees but also any other land which are principally used for cultivation of agricultural crop. In the instant case, the teak has been grown by systematic human efforts and it is not a case of natural growth of the forest. Hence, such land must be held to be the land principally cultivated with agricultural crop. Therefore, such land will be exempted from the purview of private forests within the meaning of said Kerala Act.

We are, however, unable to accept such submission of the learned counsel. Every agricultural activity has not been exempted under the said Kerala Act and Clause (C) only protects lands which are principally cultivated with cashew or fruit bearing trees and principally cultivated with 'agricultural crop'. Agricultural crop as commonly understood does not convey the agricultural activity in teak plantation. Therefore, such activity cannot be brought within the purview of the said Clause (C).

The learned counsel for the respondents has drawn our attention to a decision of this Court in Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. Vs. Custodian of Vested Forests, Palghat and another (1990 (Suppl.) SCC 785). In the said case, the question of vesting as forest lands in Malabar District which was initially governed by the Madras Preservation of Private Forests act, 1949 prior to the Reorganisation of States was taken into consideration in the context of applicability of Kerala Forest Act. In the said cases, agricultural activity in growing Eucaliptus trees was considered. It has been held that the land where such agricultural activity was held will not be exempted from the purview of the said Forest Act in Kerala under Clause (C). The ratio of the said decision of this Court applies in the facts of this case. Therefore, we do not find any reason to interfere with the impugned decision of the High Court. The appeal , therefore, fails and is dismissed but there will be no order as to costs.