



2026:KER:62808

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE T.R.RAVI

MONDAY, THE 17TH DAY OF AUGUST 2026 / 26TH SRAVANA, 1948

WP(C) NO. 15472 OF 2024

PETITIONER:

UDHANASHRAM CHARITABLE SOCIETY,
REG. NO. K-151/92,
VELLOOR,
KOTTAYAM REPRESENTED BY ITS PRESIDENT FR.BUDA
LORENZO., PIN - 686501

BY ADVS.
SRI.K.T.THOMAS
SHRI.MATHEW BOB KURIAN
SRI.NIKHIL BERNY
SHRI.ASHWIN JOSEPH PAUL
SRI.A.KEVIN THOMAS

RESPONDENTS:

- 1 STATE OF KERALA
REP. BY SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM,
PIN - 695001
- 2 DISTRICT COLLECTOR
COLLECTORATE, KUYILIMALA,
PAINAVU P.O., IDUKKI,
PIN - 685603



2

3 ASSISTANT CARDAMOM SETTLEMENT OFFICER
KUMILY, IDUKKI,
PIN - 685509

4 THE VILLAGE OFFICER
ANAVILASOM VILLAGE OFFICE,
UDUMBANCHOLA,
IDUKKI,
PIN - 685554

BY ADVS.
SRI JAFAR KHAN, SR.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
10.04.2026, THE COURT ON 17.08.2026 DELIVERED THE FOLLOWING:



T.R. RAVI, J.

W.P.(C)No.15472 of 2024

Dated this the 17th day of August, 2026

JUDGMENT

The writ petition has been filed challenging Ext.P15 order of the 3rd respondent, cancelling Ext.P8 lease in favour of the petitioner Society. The petitioner is a Charitable Society registered in the year 1992 under the provisions of the Travancore Cochin Literary Scientific and Charitable Societies Registration Act, 1955 (hereinafter referred to as the 1955 Act). After registration, the Society started doing cardamom cultivation. The Special Deputy Tahsildar (CS), Kumily initiated proceedings under the Kerala Land Conservancy Act, 1957, against the Society for unauthorised occupation of the subject property and imposed penalty. Thereafter, as directed by the Special Deputy Tahsildar (CS), Kumily, petitioner Society applied for lease of the area in their occupation. Based on the application, the 3rd respondent granted lease of 3.56.68 hectares of land in Sy.Nos.171/2-1-2 and 171/1-1-2 of Anavilasom Village for cardamom cultivation for a period of 20 years with effect from 03.04.1996, by the 3rd respondent, under



the provisions of Rules for Lease of Government Lands for Cardamom Cultivation, 1961 (hereinafter referred to as the 1961 Rules). The petitioner developed the land and utilised it for cardamom cultivation and other short-term crops. The petitioner Society paid the annual lease rent without default till the expiry of the lease in 2016. After the expiry of lease in 2016, the lease was renewed for a further period of 20 years on payment of the premium and annual lease rent, as directed by the State Government. The petitioner paid the annual lease rent upto the year ended 31.03.2024. The property has been developed into a cardamom plantation. The petitioner submits that there is no allegation of violation of any of the lease conditions from any quarters.

2. While so, the petitioner was directed by the 3rd respondent to attend hearing on 04.03.2024, to verify the citizenship of Fr.Orfeo Suzzi, the Founder and President of the petitioner Society, in connection with the lease. The representative of the petitioner attended the hearing on 05.03.2024 and pointed out that lease is in favour of petitioner Society and not any individual and produced the lease order and identity documents of the present President. The



petitioner was given a copy of Ext.P13 notice from the office of 3rd respondent only on 05.03.2024. The petitioner sought time to file detailed explanation to the notice. However, the 3rd respondent passed Ext-P15 order cancelling the lease in favour of the petitioner Society on the ground that lease cannot be granted to a foreign national, since it violates the Foreign Exchange Management Act, 1999 (hereinafter referred to as FEMA). The writ petition is filed in the above circumstances.

3. The 3rd respondent has filed a counter affidavit contending that unlike in the Assignment of Land within Municipal and Corporation Areas Rules, 1995, the assignment under the Kerala Government Land Assignment Act, 1960 and the 1961 Rules can only be to individuals. Reference is made to Rule 2(b) of the 1961 Rules to submit that a person who is in unauthorized occupation of the land and has cultivated the same with Cardamom is an encroacher. It is stated that a reading of Rule 2(d) of the 1961 Rules would make it clear that no assignment can be granted to a Society. Rules 2(e) and (f) are also referred to in support of the above proposition. It is stated that Ext.P15 order was issued by the 3rd respondent after considering the



status of the lessee as a Foreign Citizen. It is stated that the order was passed after issuing notice to Fr. Budo Lorenzo, who had appeared before the authority and submitted that Fr. Orfeo Suzzi is not in India, and he will not come back to India. It is contended that Ext.P8 order grants lease to Rev. Fr. Orfeo Suzzi, the Founder and President of Udhanashram, and not to the petitioner Society. It is pointed out that Ext.P8 refers to the residential status of the lessee, compared to Ext.P7 which refers to the Society, which clearly shows that the assignment is to an individual and not the Society. It is contended that since the petitioner was not an affected party, there was no obligation to issue notice and hear the Society, before cancelling the lease. Another contention taken is that there is a statutory remedy available under Rule 29 of the 1961 Rules, to approach the District Collector by filing an appeal against Ext.P15 order.

4. The petitioner has filed a reply affidavit, wherein it is stated that Rule 6A of the 1961 Rules provides for grant of lease jointly to more than one person and to firms or companies and that companies include incorporated/registered bodies like Societies registered under the 1955 Act. It is stated that the petitioner Society had applied for



and was granted, lease of land for cardamom cultivation for 20 years as per Ext-P8 order and the period was extended based on Ext.P9 application submitted by the Society, and the 3rd respondent had also accepted the premium and renewed the lease as per Ext.P12 proceedings for a further period of 20 years. It is pointed out that admittedly, no notice was issued to Fr.Orfeo Suzzi, who according to the 3rd respondent was the lessee, or to the petitioner, as is evident from Ext.P14 notice itself, which is not addressed to anybody. It is further pointed out that Ext.P14 notice was not served upon the petitioner, and petitioner had obtained a copy of the same only on 05.03.2024, when their representative visited the office of the 3rd respondent. It is alleged that the petitioner had produced the documents sought by the 3rd respondent and no further explanation was sought. It is further pointed out that the renewal was on application by the President Fr.Buda Lorenzo on behalf of the Society.

5. On merits it is contended that the reasoning of the 3rd respondent in Ext.P15 is against the law laid down by the Hon'ble Supreme Court in **Asha John Divianathan Vs. Vikram Malhotra & others [2021 (2) KLT 484]**, that Section 31 of the Foreign Exchange



Regulation Act, 1973 (hereinafter referred to as FERA) does not require that transactions which have already become final including by virtue of decision of courts of competent jurisdiction be reopened or disturbed in any manner. The Apex Court also declared that the ratio of the decision is to be applied prospectively. Prior to the judgment in **Asha John (supra)**, the Apex Court while interpreting the impact of violation of FEMA Rules in **Vijay Karia & Others Vs. Prysmian Cavi E Sistemi SRL & Ors [AIR 2020 SC 1807]** held that FEMA, unlike FERA refers to the nation's policy of managing foreign exchange instead of policing foreign exchange and that Section 47 of FERA no longer exists in FEMA, so that transactions that violate FEMA cannot be held to be void. The Court also held that if a particular act violates any provision of FEMA or the Rules framed thereunder, permission of the Reserve Bank of India may be obtained post-facto, if such violation can be condoned.

6. Heard Sri K.T. Thomas on behalf of the petitioner and the learned Government Pleader on behalf of the respondents.

7. The counsel for the petitioner contended that the repeal of FERA and consequential enactment of FEMA clearly points to the



liberalised vision of the Parliament in the matter of foreign exchange management and the line of decisions rendered by the Hon'ble Supreme Court on the subject, evidence the progressive interpretation of courts in the same direction. It is submitted that the lease could not have been cancelled under the pretext of violation of FEMA. It is further contended that the 3rd respondent is not the authority competent to decide on the issues arising under the FEMA. Another contention raised is that the cancellation of the lease is in violation of the principles of natural justice since no notice was served on the petitioner Society and it is a clear case of denial of opportunity of hearing prior to a decision which has civil consequences. Regarding the contention of the respondents that there is an alternate remedy, it is contended that the case will fall within the well recognised exceptions to the said rule. Another contention raised is that going by Ext.P8, the assigning authority must give 60 days' notice before such action is taken against the assignee and the said condition has also been violated.

CONSIDERATION:

8. The petitioner is a Society registered under the 1955 Act.



As per Section 1(2) of the Act, it extends to the whole of the State of Kerala, excluding Malabar District. The Society is formed under the Act by seven or more persons associated for any literary, scientific or charitable purpose, subscribing their names to a memorandum of association and filing the same with the Registrar. Section 5 of the Act says that on filing the memorandum with the Registrar, the Registrar shall certify under his hand that the Society is registered under the Act. Exts.P1 and P2 are the copies of the certificates issued to the petitioner after completion of the above formalities. Section 8 of the Act says that the property belonging to a Society, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such Society by their proper title. Section 9 says that the Society may sue or be sued in the name of the President, Chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the Society. Ext.P3 is the PAN card issued in the name of the Society by the Income Tax Department as early as in 1992, even before the lease was granted to the Society. Ext.P4 is the copy of the



relevant page of the Passport issued to Fr. Buda Lorenzo, who was the President of the Society at the time of renewal of the lease in 2016. Ext.P5 and Ext.P6 are the copies of the identity card issued by the Election Commission of India and the Aadhaar card issued to Fr. Buda Lorenzo, which show that the President at the time of renewal of the lease and the cancellation of the lease was an Indian citizen. Ext.P7 would show that the Society has been regularly submitting their returns to the Registrar.

9. It can be seen from the records that in 1993 the petitioner had obtained 8.89 Acres of land for cardamom cultivation, without permission from the Cardamom Settlement Officer, leading to initiation of Land Conservancy proceedings, which culminated in Ext.P16 proceedings imposing penalty. Ext.P16(a) is a readable copy of Ext.P16. The order in the LC proceedings initiated against the Founder President of the petitioner is dated 2.4.1996. It is significant that the lease Ext.P8 was granted on the very next date i.e. 3.4.1996. Ext.P17(a) will clearly show that the penalty imposed was paid by the petitioner Society. It is thereafter that the petitioner approached the Settlement Officer and took the lease. Ext.P8 says that the land



specified in the schedule is leased to Rev.Fr.Orfeo Suzzi (wrongly spelt as Orfco) Founder and President of Udhanasramam. The contention of the respondents is that the lessee referred to is Rev.Fr.Orfeo Suzzi and not the Society. Going by Sections 8 and 9 of the 1955 Act, the above contention is not sustainable since legally the property of the Society is to vest in the Governing Body or the trustees and the Society is to be sued in the name of the President or such other person. That is because, unlike a company registered under the Companies Act, the Society is not a juristic person. One cannot hence find fault in the document referring to the name of the President, along with the name of the Society, as the lessee. The respondents did not have a case that the lease was wrongly granted, at any time during the entire term of the lease, and even thereafter when it was extended by a further period of 20 years.

10. By Ext.P9, the then President, who is admittedly a citizen of India, requested for renewal of the lease granted to the Society. Ext.P12 proceedings of the Assistant Cardamom Settlement Officer shows that it was based on the report of the Deputy Tahsildar that the applicant was in possession of the land and that the land is cultivated



with cardamom, and based on the directions issued by the Government to collect premium and lease rent, that the premium and lease rent was received from the petitioner. Even though it is clear from Ext.P9 that the request for renewal was not by the original Founder and President of the Society, the proceedings still showed the name of the original Founder and President. It is eight years after the renewal of the lease that Ext.P14 notice is issued directing to produce the records in connection with the citizenship of the Founder President, on 4.3.2024. In view of Exts.P8, P9, P16 series, P17 series and P18 series, read with Sections 8 and 9 of the 1955 Act, the contention of the respondents that the lease was in favour of the Founder President of the petitioner Society in his personal capacity cannot be countenanced and the same is rejected.

11. Ext.P14 is seen dated 26.2.2024 and is not addressed to any person in particular. It is the specific case of the petitioner that no notice was issued to the petitioner, and they were not heard prior to the cancellation of the lease. There is no specific denial of the above averment in the counter affidavit filed by the 3rd respondent, except a vague statement that there is no violation of the principles of natural



justice. The only two reasons stated are regarding the citizenship of the Founder President and that the Society cannot be a lessee under the 1961 Rules. Since there is a clear violation of the principles of natural justice, Ext.P15 order is liable to be set aside on that ground. (See **A.K Kraipak & Ors. Vs. Union of India & Ors. [1969 (2) SCC 262]**, **Kumaon Mandal Vikas Nigam Ltd. Vs. Girja Shankar Pant & Ors. [(2001) 1 SCC 182]** and **Manoj Kumar Vs. Union of India [2024 (2) KLT 585]**). Though it was argued on behalf of the respondents that the petitioner had an alternate remedy under Rule 29 of the 1961 Rules, since it is a case where there is blatant violation of the principles of natural justice, this Court is justified in exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

12. The next question that is to be addressed is the contention that no lease could have been granted to the Society. The said contention is without any legal basis. The Kerala Land Assignment Act, under which the 1961 Rules have been issued, does not define the word "person". Rule 2(f) of the 1961 Rules gives an inclusive definition for the term by saying that "person" includes the members of his or her family and "family" includes a person, his wife or her husband,



their children living with or dependent on them, and also their parents solely dependent on them. Rule 6A of the 1961 Rules provides for grant of lease jointly to more than one person and also to firms or companies and says that companies include incorporated/registered bodies like Societies registered under the 1955 Act. The General Clauses Act defines a "person" to include any company or association or body of individuals, whether incorporated or not. Since the definition in the Rules is an inclusive definition, and taking into account Rule 6A of the 1961 Rules and the definition in the General Clauses Act, it cannot be said that a lease for cardamom cultivation cannot be granted to a company or association or body of individuals, whether incorporated or not. Hence, the contention of the respondents that lease could not have been granted to the petitioner is rejected.

13. The only other question that remains is whether there is a prohibition to grant a lease to a person who is not an Indian citizen. In view of my conclusion that the lease is in favour of the petitioner Society and not its founder member, the question is only academic. Since the question has been raised, I shall answer the same.

14. When the lease was granted in 1996, the FERA was in



force. Section 31 of FERA says that no person who is not a citizen of India and no company (other than a banking company) which is not incorporated under any law in force in India shall, except with the previous general or special permission of the Reserve Bank, acquire or hold or transfer or dispose of by sale, mortgage, lease, gift, settlement or otherwise any immovable property situate in India. The proviso to the Section excludes acquisition or transfer of any such immovable property by way of lease for a period not exceeding five years. It can thus be seen that the Act does not prohibit grant of lease to a Society registered under the 1955 Act. It is only if the lease is in favour of a foreign national personally that there is a requirement of prior permission. The FERA was replaced by the FEMA, which does not contain a similar provision. Regulation 7 of the Foreign Exchange Management (Acquisition & Transfer of Immovable Property in India) Regulations, 2000, says that no person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Macau or Hong Kong, without permission of the Reserve Bank, shall acquire or transfer immovable property in India, other than lease, not exceeding five years. Here again, if the petitioner Society is the lessee,



the Section does not apply. A reading of Sections 13,15 and 16 of the FEMA will show that it is for the adjudicating authority under the said Act to take action for violation of the provisions of the Act, by imposing penalty or permitting compounding, etc. As such, even if there is a violation of FEMA, the 3rd respondent has no jurisdiction to take action.

15. That apart, in **Asha John (supra)**, the Hon'ble Supreme Court, after holding that compliance with Section 31 of FERA is mandatory, took note of the fact that High Courts have taken a view otherwise, and held that transactions which have already become final, including by virtue of the decision of the Court of competent jurisdiction, need not be reopened or disturbed, in view of the paradigm shift in the general policy of investment by foreigners in India after repeal of FERA. The judgment in **Asha John (supra)** was rendered in the year 2021 by which time the lease, even if it is to be treated as a lease in favour of the Founder President had expired and had been renewed by a fresh lease in 2016, on an application by the then President of the petitioner Society, who is admittedly a citizen of India. Moreover, since Section 47 of FERA no longer exists and there is no similar provision in FEMA, transactions that violate FEMA cannot be



held to be void. [**See Vijay Karia (supra)**]. Hence, the 3rd respondent could not have cancelled the lease on that ground also.

16. The Government Pleader contended that going by Regulations 3, 4 and 5A of the FEMA Regulations of 2000, no farmland could have been acquired. Regulation 3 relates to an acquisition by a citizen of India who is a resident outside India and Regulation 4 relates to an acquisition by a person of Indian Origin resident outside India. Regulation 5A relates to purchase or sale by a Foreign Embassy or a Diplomat or a Consulate General. The said Regulations will not apply to a lease in favour of a Society registered under the 1955 Act.

In the result, the writ petition is allowed and Ext.P15 order is quashed.

Sd/-

T.R.RAVI

JUDGE

dsn



APPENDIX OF WP(C) NO. 15472 OF 2024

PETITIONER EXHIBITS

Exhibit-P1	TRUE COPY OF THE REGISTRATION CERTIFICATE BEARING NO.K-151/92 DATED 18.03.1992 ISSUED BY THE DISTRICT REGISTRAR, KOTTAYAM
Exhibit-P2	TRUE COPY OF THE CERTIFICATE DATED 28.04.1992 ISSUED BY THE TAHSILDAR, UDUMBANCHOLA
Exhibit-P3	TRUE COPY OF THE PAN CARD NO.AAAAU2800R ISSUED BY THE INCOME TAX DEPARTMENT
Exhibit-P4	TRUE COPY OF THE RELEVANT PAGES OF PASSPORT NO.T0417605 ISSUED BY PASSPORT OFFICE, KOCHI
Exhibit-P5	TRUE COPY OF THE VOTER I.D. CARD ISSUED TO FR.BUDA LORENZO ISSUED BY ELECTORAL REGISTRATION OFFICER
Exhibit-P6	TRUE COPY OF THE AADHAAR CARD NO.791416155306 ISSUED TO FR.BUDA LORENZO
Exhibit-P7	TRUE COPY OF THE CERTIFICATE DATED 11.08.2023 ISSUED BY THE DISTRICT REGISTRAR (GENERAL), KOTTAYAM
Exhibit-P8	TRUE COPY OF THE ORDER OF LEASE OF GOVERNMENT LAND FOR CARDAMOM CULTIVATION DATED 03.04.1996
Exhibit-P8 (a)	TYPED COPY OF EXHIBIT P8 PRODUCED HEREWITH MARKED AS EXHIBIT-P8(A) .
Exhibit-P9	TRUE COPY OF THE REQUEST LETTER DATED 04.05.2026 SUBMITTED BY PETITIONER TO 3RD RESPONDENT
Exhibit-P10	TRUE COPY OF THE DEMAND NOTICE DATED 13.06.2016 ISSUED BY THE 3RD RESPONDENT
Exhibit-P11	TRUE COPY OF THE RECEIPT FOR PAYMENT OF PREMIUM AND LEASE RENT DATED 04.07.2016
Exhibit-P12	TRUE COPY OF THE PROCEEDINGS DATED 18.07.2016 ISSUED BY 3RD RESPONDENT
Exhibit-P13	TRUE COPY OF THE RECEIPT DATED 12.06.2023 ISSUED BY VILLAGE OFFICER, ANAVILASAM
Exhibit-P14	TRUE COPY OF THE NOTICE DATED 26.02.2024



	ISSUED BY 3RD RESPONDENT
Exhibit-P15	TRUE COPY OF THE ORDER DATED 21.03.2024 PASSED BY 3RD RESPONDENT
EXHIBIT-P16	TRUE COPY OF THE PROCEEDINGS DATED 02.04.1996 OF SPECIAL DEPUTY TAHSILDAR (CS) , KUMILY
EXHIBIT-P16 (A)	TRUE TYPED COPY OF PROCEEDINGS DATED 02.04.1996 OF SPECIAL DEPUTY TAHSILDAR (CS) , KUMILY (EXHIBIT-P16)
EXHIBIT-P17	TRUE COPY OF THE RECEIPT DATED 02.04.1996 ISSUED BY SPECIAL DEPUTY TAHSILDAR (CS) , .KUMILY
EXHIBIT-P17 (A)	TRUE COPY OF RECEIPT DATED 02.04.1996 ISSUED BY SPECIAL DEPUTY TAHSILDAR (CS) , KUMILY (EXHIBIT.P17)
EXHIBIT-P18	TRUE COPY OF THE RECEIPT DATED 03.04.1996 ISSUED BY ASSISTANT SETTLEMENT OFFICER, KUMILY
EXHIBIT-P18 (A)	TRUE TYPED COPY OF THE RECEIPT DATED 03.04.1996 ISSUED BY ASSISTANT SETTLEMENT OFFICER, KUMILY (EXHIBIT-18)

RESPONDENT EXHIBITS

EXHIBIT R3 (A)	TRUE COPY OF THE PROCEEDINGS OF THE ASSISTANT CARDAMOM SETTLEMENT OFFICER, KUMLIY DATED 18.07.2016.
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