

IN THE HIGH COURT OF KERALA AT ERNAKULAM  
PRESENT  
THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN  
&  
THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

Wednesday, the 8<sup>th</sup> day of April 2026 / 18th Chaithra, 1948  
WP(PIL) NO. 78 OF 2026(S)

**PETITIONER:**

JAMES MATHEW, AGED 65 YEARS, SON OF LATE K. POULOSE  
KALATHIL HOUSE, KALANJOOR P.O., PATHANAMHITTA DISTRICT,  
PIN - 689 694.

**RESPONDENTS:**

1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
2. PRINCIPAL SECRETARY, PRINCIPAL SECRETARY (FOREST AND WILDLIFE) SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
3. UNION OF INDIA, INSPECTOR GENERAL OF FOREST & WILDLIFE, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, GOVERNMENT OF INDIA, INDIRA PARYAVARANA BHAWAN, JORBAGH ROAD, NEW DELHI, PIN - 110 003.
4. THE PRINCIPAL CHIEF CONSERVATOR OF FOREST, WILD LIFE AND CHIEF WILD LIFE WARDEN, KERALA FOREST HEADQUARTERS, WILD LIFE OFFICE, THIRUVANANTHAPURAM, PIN - 695 014.
5. LAW SECRETARY, LAW DEPARTMENT, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.
6. MOHANLAL V, AGED 65 YEARS, S/O LATE VISHWANATHAN NAIR, VISMAYAM VEEDU, THEVARA, ERNAKULAM, PIN - 682 013.

Writ petition (Public Interest Litigation) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(PIL) the High Court be pleased to stay the operation of the Kerala Wild Life (Protection) Amendment Rules, 2026 vide Exhibit P2 Notification and all further proceedings pursuant thereto, pending disposal of Writ Petition, in the interest of justice.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(PIL) and the court passed the following:

P.T.O.

WEDNESDAY, THE 8<sup>TH</sup> DAY OF APRIL 2026

WP(PIL) No. 78 of 2026

JAMES MATHEW

VS

STATE OF KERALA & OTHERS

**ADVS FOR PETITIONER/S:**

DR.ABRAHAM P.MEACHINKARA, SHRI.P.MURALEEDHARAN,  
SMT.MARGARET MAUREEN DROSE, SHRI.JAYAKRISHNAN P.R.,  
SHRI.THOMAS GEORGE, SMT.AISHA FOUCIK

**ADVS FOR RESPONDENT/S:**

GOVERNMENT PLEADER, SHRI.SURAJ KUMAR D., CGC,  
ADDL.DIRECTOR GENERAL OF PROSECUTION, ADDL. STATE PUBLIC  
PROSECUTOR(AG-28)



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**Soumen Sen, C.J. & Syam Kumar V.M., J.**

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**W.P.(PIL) No.78 of 2026**  
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**Dated this the 08<sup>th</sup> day of April, 2026**

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**Appearance:**

For the Petitioner : Dr.Abraham P.Meachinkara

For the Respondents : Mr.Grashious Kuriakose, ADGP  
for the State

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**ORDER**

**Soumen Sen, C.J.**

We have heard the learned counsel for the parties.

2. In prior proceedings concerning the action of the respondent-State Government in issuing notifications in terms of Section 40(4) of the Wild Life Protection Act, 1972 (for short "1972 Act") that permitted a celebrated film actor from the State to declare two pairs of Ivory Tusks and 13 Ivory artifacts before the Chief Wild Life Warden of the State, and the subsequent action of the State Government in issuing ownership certificates to the said person in respect of the same Ivory items in terms of Section 42 of the 1972 Act, the Co-ordinate Bench, upon consideration of

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Sections 39, 40, 40A, 41 and 42 of the 1972 Act read with Rules 35, 36 and 37 of the Kerala Wild Life (Protection) Rules, 1978 while setting aside the Government Orders dated 16<sup>th</sup> December, 2015 and 17<sup>th</sup> February, 2016 on the ground that the statutory requirement of publication of the Government Orders in the gazette was lacking, observed that the State Government would be at liberty to issue a fresh notification in terms of Section 40(4) of the 1972 Act for conferring the immunity envisaged under the said provision to persons or class of persons envisaged under the statutory provision. The learned Additional Director General of Prosecution has submitted that the fresh notification with explanatory note was pursuant to this direction.

3. The learned counsel for the petitioner, both yesterday and today reiterated that notification is contrary to the judgment of the Hon'ble Supreme Court in **Vishalakshi Amma v. State of Kerala**<sup>1</sup> wherein it was held that immunity cannot be extended beyond 180 days and this notification is not permissible as the Central

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Government has already notified the time limit within which such declaration is to be made.

4. *Prima facie*, it appears that the State Government has acted on the basis of the direction issued by the Co-ordinate Bench as the earlier Government Orders were not notified in accordance with the provisions of law. Whether the doctrine of occupied field is applicable in view of Section 40 and 40A of the 1972 Act conferring similar powers to the State and Central Government, would require consideration.

5. However, having regard to the fact that the State Government appears to have acted *bona fide* based on the said judgment, we are not inclined, at this stage, to grant a stay of the operation of the said notification. However, any declaration made or immunity extended pursuant to the notification dated 4<sup>th</sup> March 2026 shall abide by the result of this writ petition.

6. The State shall file an affidavit on or before 25<sup>th</sup> May 2026. The reply affidavit shall be filed within a week thereafter.

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7. The matter shall be listed in the monthly list of June 2026.

**Sd/-  
Soumen Sen  
Chief Justice**

**Sd/-  
Syam Kumar V.M.  
Judge**

ds 08.04.2026



**APPENDIX OF WP(PIL) 78/2026**

**Exhibit P2**

**THE TRUE COPY OF THE KERALA WILDLIFE (PROTECTION)  
AMENDMENT RULES , 2026.**

