

PRAVASI PROPERTY PROTECTION ISSUES

PRESENTED AT THE 8TH PRAVASI BHARATHIYA
DIVAS AT NEW DELHI ON JAN. 7, 2010

Dr. Sreedhar Kavil



Dr. Sreedhar Kavil, Chairman, Global Advisory Board, World Malayalee Council speaking at the Pravasi Conference in New Delhi on Pravasi Property Protection Issues.

Given the critical importance of the issue, the first session of the Pravasi conference on Jan.7, 2010 was devoted to the *PRAVASI PROPERTY PROTECTION ISSUES*. Dr. Sreedhar Kavil, Chairman, Global Advisory Board, World Malayalee Council and Sr. Advocate, Kerala High Court, Jose Kannanthanam was the presenters on:

- (a) The crisis confronting the **Pravasis globally**
- (b) The urgent need for a national Legislation, and
- (c) The remedial measures to protect the properties of over 30 million Pravasis who have remitted to India in 2009 over **US dollars 53 billion.**



Dr Sreedhar Kavil with officials of the Pravasi Bharatiya Divas Seminar on Property related issues of NRI's and People of Indian Origin in New Delhi

Pravasi Property Protection Issues in India



Jose Kannanthanam, Senior Advocate, High Court of Kerala, Cochin speaking at the Government of India Pravasi Conference on Pravasi Property Protection issues in New Delhi.

On behalf of the World Malayalee council, Dr. Sreedhar Kavil presented a PowerPoint Presentation of two case studies. In one, the Pravasi property was fraudulently transferred with the help of the Registrar to the name of another, taxes and penalties were paid with the help of the State Revenue officials, and the property was ultimately sold out in the open market.

The Pravasi came back and filed a case at the local court, and it remained pending for years. The relevant limitation act in respect of adverse possession kicked in, and the Pravasi became absolutely helpless in the eye of law.

In another case, Dr. Kavil's property (under the name KAVIL PROPERTIES PRIVATE LIMITED) was targeted by the Kerala Government (*Devaswam Department*) under false pretext of the need for land, pollution if the property is developed, etc., despite the fact that Dr. Kavil had obtained all permits for pollution control from the Kerala State.

The case went up to the Kerala High Court. The Kerala Govt. tried several unfair tactics including delaying the hearing of the case. Ultimately Jose Kannanthanam who argued the case on behalf of Dr. Kavil won the case in May 2009. Dr. Kavil had **alleged corruption**, but it was very difficult to prove.

Dr. Kavil stressed that the history of economic development of China, S. Korea, and Taiwan was fueled by the help and contribution of their overseas people. It is really sad that India does only lip service to this, and does not show real action to recognize and enthusiastically take steps to protect the properties owned by Pravasis in India.

Jose Kannanthanam, Sr. Advocate, Kerala High Court and the chairman of *PRAVASI LEGAL COUNCIL* discussed the constitutional issues concerning Land Laws in India, and concluded that this issue should be subjected to a **national legislation**.

Pravasi Property Protection issues in India

Kannanthanam suggested specific remedies as follows:

- 1. Formation of a Pravasi Tribunal to try such cases**
- 2. Setting up time limits for resolution of such cases**
- 3. Suspension of the rules of Adverse Possession in these cases**
- 4. Compensation at the current replacement cost.**

Jose Kannanthanam and Dr. Kavil had personal discussions earlier on this issue with Dr. Justice Lakshmanan, and it was proposed that Kannanthanam will file a post-conference brief with Dr. Justice Lakshmanan.

During his presentation before the Pravasi meeting, Jose Kannanthanam, Dr. Sreedhar Kavil, T. M. Jacob (President, WMC European Region) met with many govt. officials, speakers, Judges, and Pravasis.

Dr. Kavil stressed that this is not an issue for only World Malayalees (who consist of only 1/6th of the Pravasis population) it is meant for all Pravasis. The battle has only begun by WMC European leaders like Mr. Jacob Mathew, President of European Region and Mr. Joseph Kainikkara, Global Vice President, WMC.

The Indian government will have to be urged to take immediate action for a suitable legislation on the lines of a DRAFT BILL submitted by WMC on Oct. 19, 2009 to the **Pravasi Minister**

The original bill submitted on October 19 was drafted by an expert advocate, Mr. Tomy Alex, who is now in Chicago. World Malayalee Council is grateful to him for his help.
