

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5.11.2009

CORAM:

THE HONOURABLE MR.JUSTICE S.J.MUKHOPADHAYA
AND
THE HONOURABLE MR.JUSTICE M.DURAIWAMY

W.P.Nos.10147 and 3048 of 2009
& M.P.No.1 of 2009 in W.P.No.3048 of 2009

The Nilgiris Planters Association,
"Glen View", Coonoor-643 001. .. Petitioner in W.P.No.10147 of 2009
K.Jayaraman .. Petitioner in W.P.No.3048 of 2009

Vs.

1. Collector of Nilgiris,
Udagamandalam, The Nilgiris.
2. Revenue Divisional Officer,
Mount Pleasant, The Nilgiris.
.. Respondents in W.P.No.10147 of 2009
1. The State of Tamil Nadu,
Rep. by Secretary, Department of Revenue,
(Land Development),
Fort St.George, Chennai-600 009.
2. The Special Commissioner
& Commissioner of Land Administration,
Chepauk, Chennai-600 005.
3. The Collector of Nilgiris,
Nilgiris District, Udagamandalam.
.. Respondents in W.P.No.3048 of 2009

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writs of Mandamus, as stated therein.

For petitioner in W.P.No.10147 of 2009: Mr.S.Jayaraman
For petitioner in W.P.No.3048 of 2009: Mr.C.A.Diwakar
For respondents in both W.Ps.: Mr.P.S.Raman,
Advocate General,
assisted by
Mr.D.Sreenivasan, Addl.G.P.

ORDER

(The Order of the Court was made by S.J.Mukhopadhaya,J)

Writ Petition No.10147 of 2009 is filed for issuance of a Writ of Mandamus, to direct the respondents herein to take appropriate steps and issue appropriate direction to remove the illegal encroachments in Odai Poramboke lands as classified in the Revenue Records, which are morefully described below:

(a) New S.No.810 in Adigaratty-II Village of Meenkulam area of Coonoor Taluk of Nilgiris District of an extent of 1.3 acres.

(b) New S.No.36 (Old S.No.20/3) of Melur-I Village, Meenkulam area of Kasholai Hada of Coonoor Taluk of Nilgiris District of an extent of about 4 acres.

(c) New S.Nos.103, 104, 116/5 & 205 (Old S.No.225/2) in Pathimattam Streams of Konavakorai Village of Kotagiri Taluk of Nilgiris District of an extent of 70 cents.

(d) S.Nos.307/2, 308/2, 308/3, 172/9, 172/10 and 230/1 in Melur and Hulical Panchayats of Coonoor Taluk of Nilgiris District of a total extent of 7 acres 79.55 cents.

(e) S.No.785 of Kotagiri village of Kotagiri Taluk of Nilgiris District of an extent of two acres.

(f) S.Nos.41/7 & 59/1 (part) in Hulical Village of Coonoor Taluk of Nilgiris District of an extent of 39 cents.

(g) S.Nos.1541/1, 1541/2, 1557/1 of Adigaratty Village of Coonoor Taluk of Nilgiris District of an extent of 10 cents.

2. Similar prayer has been made in Writ Petition No.3048 of 2009 for issuance of a Writ of Mandamus, to direct the respondents to remove the encroachments on the Odai Poramboke of the Odai originating at Devarshola and running through the villages Meenkulam, Melur, Dhundaneri, Craigmores, Sutton, Glencarnie and Thoodurmattam, remove the same and take action to prevent the pollution of the Odai.

3. Mr.Anandrao V.Patil, District Collector, The Nilgiris, was directed to enquire into the matter. Learned counsel for the respondents-State earlier informed that the State will take one month's time to survey the area to find out the details of the encroachments made in one or other Odai Poramboke or water-bodies, as number of encroachments have been made and only thereafter, it

could be stated as to what steps the District Administration intends to take and the time frame for removal of such encroachments, if any.

4. Pursuant to the order of the Court, the District Administration made a survey and Mr.Anandrao V.Patil, District Collector, The Nilgiris, appeared and filed a report, wherein it is accepted that large number of encroachments have been made on one or other Odai Poramboke, as quoted hereunder:

"5(a). It is submitted that Survey No.810 of Adigaratyy Village with a total extent of 0.38.5 hectare stands registered as 'Odai' in village records. Further S.No.809 of Adigaratyy Village with a total extent of 0.44.5 Hectares also stands registered as 'Odai' in village records. The following are the encroachers in Survey No.809 and 810:

Sl. No.	Name of the Encroacher	Extent of Encroachment	Mode of Encroachment
1.	The United Nilgiri Tea Estate Ltd.,	0.51.0 Hect.	Tea cultivation
2.	Velusamy	0.02.0 Hect.	Dwelling house
3.	Tmt.Rathinavalli, W/o Raju	0.01 acre	Dwelling house
4.	Tmt.Veluthai W/o Mani	0.01 acre	Dwelling house
5.	Tmt.Krishnamma, W/o Ponniah	0.01 acre	Dwelling house
6.	Tmt.Naheswari, W/o Raju	0.01 acre	Dwelling house
7.	Tmt.Muthulakshmi, W/o Late Natraj	0.01 acre	Dwelling house
8.	Tmt.Samudrakani, W/o Palraj	0.01 acre	Dwelling house
9.	Tmt.Esakkiammal, W/o Ravi	0.01 acre	Dwelling house
10.	Tmt.Valli, W/o Rajendran	0.01 acre	Dwelling house

It is submitted that Sl.Nos.1 and 2 are booked cases and the remaining are unbooked cases. The United Nilgiris Tea Estate Ltd. is a member estate in the Nilgiri Planters Association. They have

encroached 0.51.08 hectares of land by way of tea cultivation in Survey No.809 and 810 of Adigaratty Village. Action is being taken to evict the booked cases by issuing No.6 and 7 Notices in accordance with Tamil Nadu Encroachment Act 1905.

It is submitted that Eight others found in Sl.No.3 to 10 who have encroached the 'Odai' lands more than 30 years constructing houses on the banks of the 'Odai' belongs to Scheduled caste and poor in status. As there is a ban in Nilgiri District for assignment of vacant land, action will be taken by the Adi-Dravidar Welfare Department to issue house site patta by acquiring patta land nearby under private negotiation. The unbooked encroachments by way of dwelling house will be evicted soon after giving alternate land to the poor encroachers.

(b) It is submitted that S.No.36 of Melur Village with a total extent of 1.67.5 Hectare stands registered as 'Odai' in Revenue records.

The following are the encroachers.

Sl. No.	Name of the Encroacher	Extent of Encroachment	Mode of Encroachment
1.	Thiru.Marudachalam	0.05 Acre	Tea & Vegetable
2.	The United Nilgiri Tea Estate Ltd.,	1.80 Acre	Tea cultivation

It is submitted that the above are unbooked cases. The encroachment made in Sl.No.1 has already been evicted by the Revenue authorities. The United Nilgiri Tea Estates Ltd., is a Member Estate in the Nilgiri Planters Association. They have encroached 1.80 acres of land by way of tea cultivation in Survey No.36 of Melur village. The encroachments by way of Tea are more than 30 years and the same have to be evicted with the help of labourers and also by using Pocline Machines, JCB etc for which adequate time is required for eviction. I have instructed my subordinates to take necessary action in this issue.

(c) Survey number 103 of Konavakarai village with a total extent of 0.25.0 Hectare stands registered as 'Odai' Poramboke in village records.

S.No.104 of Konavakarai village with a total extent of 0.15.5 Hectare stands registered as 'Odai' Poramboke in village records.

S.No.116/5 of Konavakarai village with a total extent of 0.03.0

Hectare stands registered as 'Odai' Poramboke in village records.

S.No.205 of Konavakarai village with a total extent of 0.37.0 Hectare stands registered as 'Odai' Poramboke in village records.

The following are the encroachment details Survey number wise.

Survey Number	Name of the encroacher	Extent	Mode of encroachment
103	1. Marimuthu } S/o Madasamy } 2. Ganapathyammal, } S/o Madasamy }	0.02.0 0.23.0	House Vegetable cultivation
104	1. Ganesan, } S/o Duraisamy } 2. Tamil Selvan, } S/o Duraisamy } 3. Ramachandran, } S/o Duraisamy } 4. Rajalingam } S/o Palaniyandi } 5. Selvan, S/o Velu } 6. Rajendran, } S/o Duraisamy } 7. Nataraj, } S/o Kaliappan } 8. Chelliah, S/o Velu } 9. Rupa Devi }	0.80.0	House Vegetable cultivation

Survey Number	Name of the encroacher	Extent	Mode of encroachment
116/5	1. Murugan, } S/o Nallappan } 2. Nallappan, } S/o Murugesan } 3. Arumugham, } S/o Palaniandi } 4. Gandhi, S/o Kathan } 5. Rajendran, S/o Dasan } 6. Jaisankar, } S/o Subramani } 7. Rajeshkannan, } S/o Madasamy } 8. Raman, S/o Ramasamy } 9. Kanagaraj, } S/o Ramalingam } 10. Madasamy, } S/o Chelliah }	0.09.0 0.94.0	House Vegetable cultivation
205	1. Velliyaammai, W/o Vadamalai 2. Meyyan, S/o Alagumuthu	0.01.5 0.35.0	House Vegetable cultivation

The above encroachments are by way of dwelling houses and vegetable cultivation and are unbooked cases. The encroachers are residing there for more than 30 years and are poor in status. Action will be taken to issue house site pattas by acquiring by private negotiation. The encroachments will be evicted soon after giving alternate land.

(d) Survey No.307/2, 306/2, 308/3, 172/9, 172/10 and 230/1 of Hullical-2 village of Coonoor Taluk are patta lands and not Government lands.

(e) Survey No.785 of Kotagiri-3 village with a total extent of

18.21.0 Hectares stands registered as 'Sarkar Reserve Forest' in village records are not 'Odai' poramboke.

There are 115 encroachments which are booked. They are living in the above survey number for the past many years by way of houses except two who are doing agriculture by way of Tea in an extent of 0.46.0 hectares. Others have constructed houses at 0.005 Hectare and are poor.

(f) Survey numbers 41/7 and 59/1 (part) of Hullical village are also patta lands.

(g) Survey numbers 1541/1, 1541/2 and 1557/1 of Adigaratty village of Coonoor Taluk are also patta lands.

6. It is submitted that the new encroachments appearing in the water course porambokes are being removed by the Revenue authorities as per the direction of the Hon'ble High Court, Madras. The following encroachments have been evicted by the Tahsildar, Coonoor in Govt. Poramboke lands recently.

Sl.N o.	Village	Survey Number	Extent evicted	Name of the encroacher	Nature of encroachm ent
1.	Melur-3	519	0.03	Selvam	Orange
2.	Melur-3	519	0.02	Ravi	Orange
3.	Melur-3	519	0.01	Nataraj	Cattle pound
4.	Melur-3	519	0.03	Periyasamy	Orange and Vegetable s
5.	Melur-3	519	0.03	Tamilarasi	Orange and Vegetable s
6.	Melur-3	519	0.02	Natarasu	Orange and Vegetable s
7.	Melur-3	520	0.03	Kudiyarasan	Orange
8.	Melur-3	520	0.01	Panneer	Vegetable s

Sl.No.	Village	Survey Number	Extent evicted	Name of the encroacher	Nature of encroachment
9.	Melur-3	520	0.01	Nagesh	Cattle Pound
10.	Melur-3	520	0.01-1/2	Jaya	Orange
11.	Melur-3	520	0.01-1/2	Selvakumar	Vegetable
12.	Melur-3	520	0.01	Thyagaraj	Vegetables
13.	Melur-3	520	0.01-1/2	Periyasamy	Vegetables and Orange
14.	Melur-3	521	0.01-1/2	Ramesh	Vegetable
15.	Melur-3	521	0.02	Sakkithivel	Vegetable
16.	Melur-3	521	0.01-1/2	Muthuveeran	Orange and Vegetables
17.	Melur-3	521	0.01-1/2	Ganesan	Orange and Vegetables
18.	Melur-3	521	0.01-1/2	Tamilarasan	Orange and Vegetables
19.	Melur-3	521	0.01	Krishnamurthy	Orange and Vegetables
20.	Melur-3	521	0.01-1/2	Maniraj	Orange and Vegetables
21.	Melur-3	36	0.05	Maruthachalam	Tea & Vegetables

7. It is further submitted that the encroachments in water course porambokes are reviewed every month by the District Administration and the Tahsildars are being given instructions to evict the encroachments in water course porambokes as per the direction of the Hon'ble High Court, Chennai wherever they crop in.

It is submitted that action is being taken to evict the booked encroachments by issuing No.7 and 6 notices. As the encroachments are made by the poor and downtrodden people, action is being taken by the district administration to select alternative land for their accommodation on humanitarian grounds and the encroachments will be evicted after giving a reasonable time. The encroachments by way of tea made by the United Nilgiris Tea Estates Ltd., are more than 30 years and the same have to be evicted with help of poeline machines, JCP, etc. for which adequate time is required.

8. Hence it is prayed an adequate period to a minimum of 3 months may be given for the eviction of encroachments coming under 'Odai' porambores."

5. On instructions, learned Advocate General submitted that three months' time will be taken to remove the encroachments made by the following persons:

(i) in Survey Nos.809/810 of Adigaratty Village:

Sl.N o.	Name of the Encroacher	Extent of Encroachment	Mode of Encroachment
1.	The United Nilgiri Tea Estate Ltd.	0.51.0 Hect.	Tea cultivation
2.	Velusamy	0.02.0 Hect.	Dwelling house

(ii) S.No.36 of Melur Village with a total extent of 1.67.5 Hectare:

Sl.N o.	Name of the Encroacher	Extent of Encroachment	Mode of Encroachment
1.	Thiru Marudachalam	0.05 Acre	Tea & Vegetable
2.	The United Nilgiri Tea Estate Ltd.,	1.80 Acre	Tea Cultivation

So far as the rest of the persons are concerned, it is stated that those whose names are appearing at Sl.Nos.3 to 10 in respect of S.Nos.809/810 of Adigaratty Village, as stated in paragraph 5(a) of the report of the District Collector, and in respect of others, as stated in the report of the District Collector, some of them being ST/SC, the Government intends to rehabilitate them while removing their encroachments and it will take about six months to remove such encroachments.

So far as the encroachments stated in paragraph 6 of the report of the District Collector, it is stated that the encroachments by those persons have already been removed.

6. Having heard the learned counsel appearing for the parties, taking into consideration the steps taken by the District Collector, The Nilgiris, we are of the view that the respondents should adhere to the time schedule given by them and they are directed to remove all such encroachments within three months and six months respectively, as shown above. The poor persons whose names have been shown as encroachers are required to be rehabilitated to some other places without disturbing the ecology of the various areas.

7. The District Collector, The Nilgiris, will file status report after six months, after serving a copy of the status report on the counsel for the petitioners in both the Writ Petitions.

8. The Writ Petitions may be listed under the caption "For Orders", if the counsel for the petitioners in both the Writ Petitions make a mention of the matter.

9. The petitioners in both the Writ Petitions are given liberty to approach this Court if suitable action is not taken by the District Administration to remove the encroachments within the time frame as given above.

10. The Writ Petitions are disposed of with the aforesaid observations/directions. No costs. The Miscellaneous Petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. Collector of Nilgiris,
Udagamandalam, The Nilgiris.
2. Revenue Divisional Officer,
Mount Pleasant, The Nilgiris.

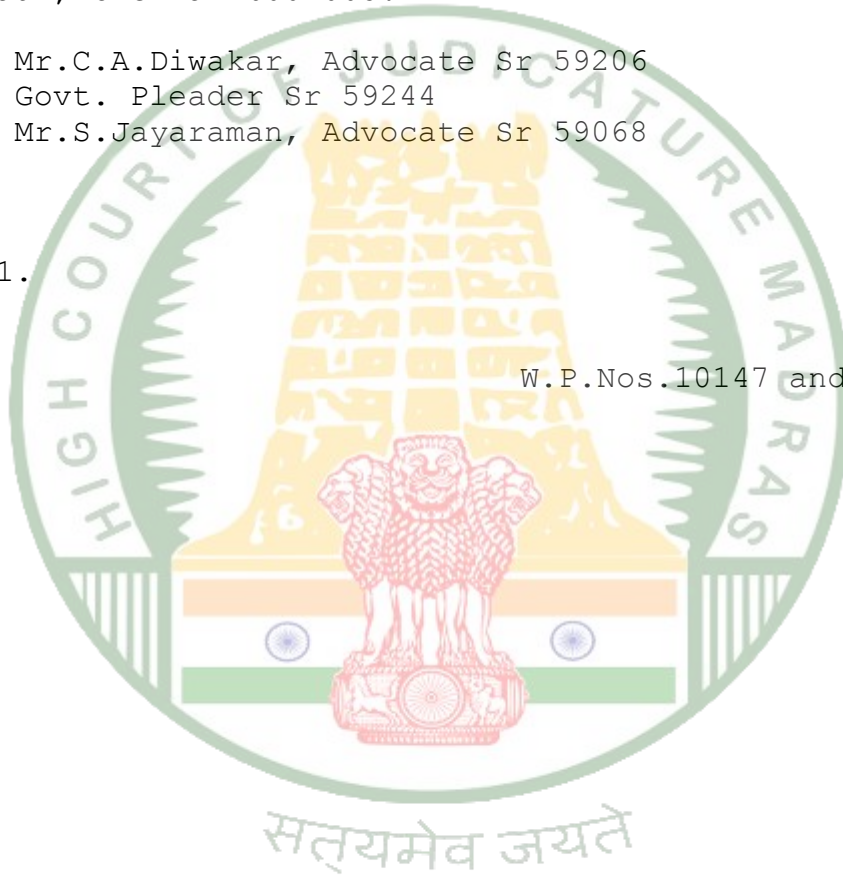
3. The Secretary,
State of Tamil Nadu,
Department of Revenue,
(Land Development),
Fort St.George, Chennai-600 009.

4. The Special Commissioner
& Commissioner of Land Administration,
Chepauk, Chennai-600 005.

+1cc to Mr.C.A.Diwakar, Advocate Sr 59206
+1cc to Govt. Pleader Sr 59244
+1cc to Mr.S.Jayaraman, Advocate Sr 59068

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W.P.Nos.10147 and 3048 of 2009



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