

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26..06..2015

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.18415 of 2015
and
M.P.Nos.1 and 2 of 2015

S.Sivaprakasam .. Petitioner
versus

1. The Government of Tamil Nadu
represented by its Secretary
Environment and Forest Department
Secretariate, Fort St.George,
Madras 600 009.

2.The Principal Chief Conservator of Forest
Panagal Maligai,
Saidapet,
Madras 600 015.

3.The District Collector
Namakkal District.

4.The District Forest Officer
District Forest Office,
Mohanur Road,
Namakkal.

5.The Conservator of Forests,
J.K.Nagar,
Trichy 600 023.

6.The Chief General Manager,
NABARD,
No.48, Mahatma Gandhi Road,
Nungambakkam, Chennai 600034.

.. Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of a writ of Certiorarified Mandamus, calling
for the records pertaining to Ref.No.WR 2/3374/2014 dated 08.12.2014,

on the file of the 2nd respondent and quash the same as illegal, incompetent and ultra vires and consequently direct the respondents to improve road from Pudhurpalapatti to Valkuzhipatti, Rasipuram Taluk, Namakkal District, as sanctioned under G.O.Ms.No.208 dated 07.12.2010.

For Petitioner ::: Mr.R.Jayaprakash

For Respondents::: Mr.V.R.Kamalanathan
Additional Government Pleader for R.3

Mr.M.K.Subramanian
Special Government Pleader
for R.1, R.2, R.4 and R.5

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The endeavour of the petitioner even earlier to get a road laid through the directions of this Court was not successful and after examining all the issues raised by the petitioner, what was observed was, the authorities concerned may examine the request of the petitioner. Thereafter, the matter has been examined by the authorities concerned and the orders on merits have been passed as under:

"11.The laying of fresh road in the hills also involve clearance of spontaneous growth and thus the orders of the Hon'ble Supreme Court of India shall be obtained before processing the request to lay the road if, any submitted Forest (Conservation) Act, 1980. The National Forest Policy envisages 33.33% geographical under forest cover, whereas in the State only 18% of geographical area is under forest cover and the forest area cannot be deforested. There are alternate roads to Valkulipatti and Pudurpalapatti. Another road cannot be recommended at the cost of Forest protection, environment and damage to the forest to increase the facility in the sensitive hill area.

12.There are well laid roads to the Valkullipatti village from the plains. The area is Reserved Forest and the entire Kolli hills coming under the provisions of the Tamil Nadu Hill Areas Preservation Act, 1980. Even, if any proposal is given under Forest (Conservation) Act, 1980, the same cannot be recommended by the Tamil Nadu Forest Department as already held.

13. In compliance of the orders of the Hon'ble High Court, Madras dated 06.03.2014 in W.P.No.3541 of 2014, examined the subject matter, considered the entire material available on record including the communication sent by the District Forest Officer, Namakkal dated 08.10.2007 & 13.02.2008 and passed the following order on merits and accordance with law.

ORDER:-

The request of the applicant to lay road from Pudhurpalapatti to Valkuzhipatti is rejected in view of the above position and for protection and maintenance of forest and environment, as mandated in the Constitution of India and orders of the Hon'ble Supreme Court of India and in tune with the object of enactment of the Tamil Nadu Forest Act, 1882, and Forest (Conservation) Act, 1980."

2. The petitioner now seeks to assail this order of the second respondent dated 08.12.2014.

3. We are of the view that there cannot be once again another round of re-examination on this issue, as even earlier, the court did not find it feasible to get into the merits of the controversy. In fact, we respectfully agree with that view as the Court cannot take up the task of providing funds or construction of roads, which are all within the administrative domain. The request of the petitioner having been considered and by giving reasons rejected, obviously the Government does not find it feasible to construct the road as demanded by the petitioner.

4. At request of the petitioner, we clarify that this order will not preclude the petitioner from pursuing the matter administratively in case it is so feasible.

The writ petition stands dismissed with the aforesaid observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksr

To

1. The Secretary, Government of Tamil Nadu,
Environment and Forest Department
Secretariate, Fort St.George, Madras 600 009.

2.The Principal Chief Conservator of Forest
Panagal Maligai, Saidapet,
Madras 600 015.

3.The District Collector, Namakkal District.

4.The District Forest Officer
District Forest Office,
Mohanur Road,
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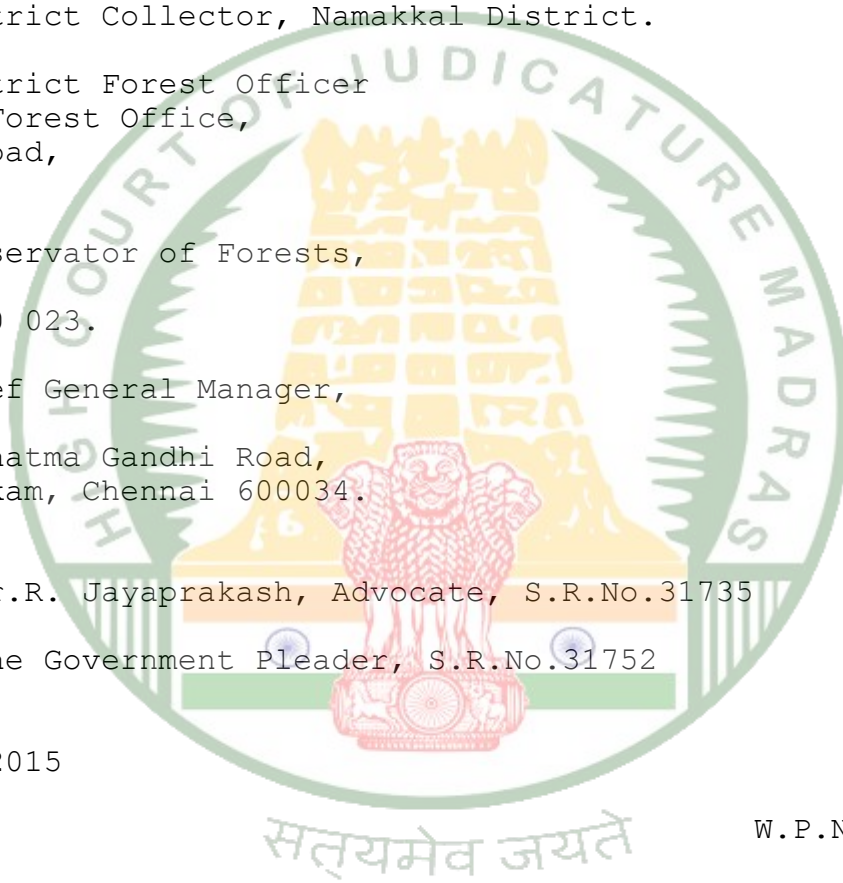
5.The Conservator of Forests,
J.K.Nagar,
Trichy 600 023.

6.The Chief General Manager,
NABARD,
No.48, Mahatma Gandhi Road,
Nungambakkam, Chennai 600034.

+1cc to Mr.R. Jayaprakash, Advocate, S.R.No.31735

+1cc to the Government Pleader, S.R.No.31752

CTK(CO)
EU(07/07/2015



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