

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3907 of 2016

C.K.Balakrishnan

.. Petitioner

Versus

1 The District Collector
Nilgiris District.

2 The District Forest Officer
Northern Circle Ooty.

3 The Superintendent of Police
Nilgiris District Ooty.

4 Palanichamay

5 K.R.Kamaraj

6 Chinnasamy

7 Pojan

8 T.Karthik .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the 2nd and 3rd respondent to initiate appropriate action as per the order of the 1st respondent dated 14.11.2013 in O.Mu.(A4) No.36263/2013 and strictly punish the respondents 4 to 8 under sections 3 of the Tamil Nadu Hill Areas (Preservation of Trees) Act 1955.

For Petitioner : Mr.Karthik Ranganathan

For Respondents : Mr.Roofus Abraham (for R1 and R3)
Government Advocate
Mr.N.Inbanathan (for R2)
Government Advocate (Forest)

O R D E R

Heard Mr.Karthik Ranganathan, learned counsel for the petitioner and Mr.Roofus Abraham, learned Government Advocate, after accepting notice on behalf of the respondents 1 and 3 and Mr.N.Inbanathan, learned Government Advocate (Forest cases) for the 2nd respondent. In the light of the order,

this Court proposes to pass, notice to the private respondents 4 to 8, is dispensed with.

2. The petitioner's case is that he is the absolute owner of the lands measuring an extent of 7 acres and 40 cents in Kookalthurai Village, Ooty Taluk, Nilgiris District and the allegation is that private respondents have unlawfully trespassed into the property and in this regard a criminal case was lodged and FIR is stated to have been registered. However, this issue cannot be gone into by this Court, in this writ petition, since, it is a private dispute between the petitioner and the private respondents. The further allegation is that about the 55 silver oak trees which were standing in the property, have been unauthorizedly felled. In this regard, the petitioner had given a complaint to the 1st respondent and the 1st respondent vide communication dated 14.11.2013, directed the 2nd respondent to take action in the matter. It appears that for nearly two years, nothing has been done, which has necessitated the petitioner to approach this Court, by way of a writ petition, for the aforementioned relief.

3. It is noteworthy to point out that in terms of Section 3 of the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955, no person shall without the previous permission in writing of the Committee, cut, uproot or burn or cause to be cut, uprooted or burnt, any tree or fell or remove any tree.

4. It is not known as to whether any permission has been granted. If so, the 1st respondent should have been aware of it, as he is the Chairman of the Committee in terms of Section 2-A of the Act. However, the 1st respondent has merely forwarded the complaint to the 2nd respondent and the 2nd respondent appears to have not taken any action on the complaint, since, the petitioner has not been informed of any action being taken.

5. In the light of the above, there will be a direction to the 2nd respondent to comply with the directions issued by the 1st respondent vide communication dated 14.11.2013, cause an enquiry into the matter after notice to the petitioner and the respondents 4 to 8 and submit appropriate report to the 1st respondent within a period of four weeks from the date of receipt of a copy of this order and based on such report the 1st respondent shall proceed to take a decision in accordance with law, expeditiously not later than eight weeks from the date of receipt of the report from the 2nd respondent. The 1st respondent shall afford an opportunity of personal hearing to the petitioner and the respondents 4 to 8 to ensure compliance of principles of natural justice, furnish copy of the report of the 2nd respondent to the petitioner and respondents 4 to 8, hear them and pass orders on merits and in

accordance with law within eight weeks from the date of receipt of the report from the 2nd respondent. It is made clear that his direction shall have no bearing on the inter se dispute between the petitioner and the respondents 4 to 8 and has been issued bearing in mind the provisions of the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955.

6. The writ petition is disposed of, accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The District Collector
Nilgiris District.

2 The District Forest Officer
Northern Circle Ooty.

3 The Superintendent of Police
Nilgiris District Ooty.

+1 cc to M/s.Karthik Ranganathan, Advocate, sr.6863

+1 cc to The Government Pleader, sr.7238

+1 cc to The Special Government Pleader(Forest), sr.6840

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