

HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.04.2017

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10337 of 2017
and
C.M.P.No.11268 of 2017

P.Ethadu Kuttan

.. Petitioner

Vs.

1. The District Collector,
Office of the District Collector,
Nilgiris District, Udagamandalam
2. The District Forest Officer,
Nilgiris South Division,
Udagamandalam
3. The District Forest Officer,
Nilgiris, North Division,
Udagamandalam

...respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution to issue a Writ of Mandamus directing the 1st and 3rd respondents not to disposses or prevent the Petitioner from carrying on his agricultural activity in Toda lands comprised in survey No.4405 measuring an extent of about 35.83 2/16 acres situated at Kandal Mandu, Udthagamandalam, Nilgiris District in pursuance to the petitioner's representation dated 28.03.2017.

For Petitioner : M/s.DR.R.Gouri

For R1 : Mr.R.Govindasamy,
Additional Government Pleader

For R2 & R3 : Mr.R.Santhana Raman,
Special Government Pleader

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. According to the petitioner, the petitioner hails from Toda Tribe community in Nilgiris District. The Government of Tamil Nadu framed rules under Section 26 of the Tamil Nadu Forest Act apply to all Toda patta lands in the Nilgiris District and other districts and Rules under Section 33 of the Tamil Nadu Forest Act for the management of the Toda patta lands on the Nilgiris. In the light of the aforesaid Rules and the Forest Act, the petitioner has to apply for permitting to the District Collector who is a competent authority to grant permission to the occupants of the Toda lands. According to the petitioner, he along with his brother are in possession of the said property and they have legal right to continue the legality of the property without interference from the authorities concerned. While that being the position, the Forest Department and their office men without any notice or prior intimation have taken steps to disposses the petitioner from the property comprising in survey No.4405 to an extent of 35.83 2/16 acres. Accordingly, to prevent the illegal action on the part of the respondent, Forest Department, the petitioner has filed the present Writ Petition before this Court for the aforesaid prayer.

3. The learned Special Government Pleader would submit that there is a dispute between the petitioner and the Forest Department regarding the aforesaid extent for demarcation of the boundary of the forest land. Therefore, the petitioner can approach the competent authority to measure and demarcate the boundaries of the property as per the available records.

4. In the light of the submission made by the counsel for the petitioner, the grievance of the petitioner is that the second respondent has illegally interfered with the possession of the property, therefore he made a representation to the first respondent, namely the District Collector on 28.03.2017 requesting not to dispossess or prevent the petitioner from carrying on his agricultural activity in the Toda Lands.

5. After the hearing of the parties concerned, the counsel for the petitioner has submitted that the dispute is regarding the boundary of the property. Therefore, the petitioner will approach the District Collector within one week from today to make fresh representation to the District Collector for demarcation of the land, namely Toda land in survey No.4405. The Special Government Pleader would submit that, if the land is demarcated by the surveyor, the issue raised by the petitioner would be settled. The counsel for the petitioner also undertakes before this court that they will not encroach the forest land and their claim before this court is that only the

second respondent shall not interfere with the possession in survey No.4405.

6. Therefore, in the light of the above said submissions made by the counsels for the parties, considering the facts and circumstances of the case, I am inclined to pass the following orders.

(i). The petitioner is directed to submit the representation to the first respondent for demarcation of boundaries in survey No.4405 at Kandamandu Village in Nilgiris District.

(ii). On such representation being made by the petitioner within the stipulated period, the first respondent is directed, if necessary, to appoint the District Surveyor to inspect and demarcate the property in survey No.4405 and submit a report.

(iii). Thereafter, the first respondent is directed to conduct the enquiry after providing an opportunity to the petitioner as well as the other respondents i.e. Forest departments and pass appropriate order on merits, and in accordance with law, within the period of twelve weeks from the date receipt of a copy of the above said report.

(iv). In the meantime, the status quo, as on today, will be maintained. It is made clear that the petitioner shall not encroach the land of the Forest Department. Further, as the counsel for the petitioner undertakes that no encroachment will be made, the petitioner shall surrender the said land to the Forest Department immediately, after such order is passed by the District Collector in this regard.

7. The Writ Petition is disposed of with the above directions. No costs. Consequently connected Miscellaneous petition is closed.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Office of the District Collector,
Nilgiris District, Udagamandalam

2. The District Forest Officer,
Nilgiris South Division,
Udagamandalam

3. The District Forest Officer,
Nilgiris, North Division,
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+1 cc to Dr.R.Gouri Advocate sr 24874

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