

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Cont.P.No.509 of 2017

and

Sub Application No.82 of 2017

Sajeev Kurian ... Petitioner

Vs.

1.P.K.Dileep,
The District Forest Officer,
Gudalur Division, The Nilgiris District.

2.V.Saravanan,
The Forest Range Officer,
Pandalur Range, Devala - 643 270,
Gudalur, The Nilgiris District. ... Respondents

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the respondents for the Contempt of this Hon'ble Court committed by them by violating the order dated 14.07.2006, passed by this Court in W.P.No.15838 of 2004.

For Petitioner : Mr.T.P.Manoharan, Senior Counsel
for Mr.K.P.Jotheeswaran

For Respondent : Mr.M.Santhana Raman
Additional Government Pleader
(Forest)

* * * * *

O R D E R

This Contempt application is filed by the contempt petitioner to comply the order passed by this Court on 14.07.2006 in W.P.No.15838 of 2004. But the respondents have not been complied with the above said order.

2. Admittedly the order of this Court was passed on 14.07.2006 and the present contempt application was filed on 27.02.2017, after a lapse of about 10½ years. In these circumstances, this Court is inclined to look into the relief originally sought for by the contempt petitioner in the writ petition filed in W.P.No.15838 of 2004. The relief sought for in the writ petition is to call for the records relating to the order bearing No.Nil, dated 19.03.2004 on the file of the fourth respondent in the writ petition and to quash the same and consequently to direct the respondent 2 to 4 not to demolish the house, destroy the plants and trees and dispossess the writ petitioner from the land measuring 1.50 acres in R.S.No.632 (S.F.No.632), Amikulam Village, Devala, Gudalur, The Nilgiris District, till the disposal of the proceedings in RC.A.No.942 of 1987 dated 02.05.2001, in respect of the claim made by the writ petitioner to exclude the said land from the proposed reserved forest area and pass further orders.

WEB COPY

3. It was made clear by the petitioner that the proceedings bearing RC.A.No.942 of 1987 at the time of filing of the above writ petition was pending. Further, the proceedings dated 19.05.2004 was enclosed in page No.50 of the typed set of papers filed along with this contempt application. The notice states that the writ petitioner was directed to show cause, within 15 days on receipt of

the notice as to why he should not be evicted from the said land and the property thereon should not be occupied under Section 68 (A) of the Tamil Nadu Forest Act.

Section 68-A of the Tamil Nadu Forest Act states that

²[68-A. Liability of person unauthorisedly occupying any land in reserved forest etc.

to summary eviction:- Any person unauthorisedly occupying any land in reserved forest or any land at the disposal of Government may be summarily evicted by a officer of Forest Department not below the rank of Forest Ranger or an Officer of the Revenue Department not below the rank of Tahsildar having jurisdiction over area in which such land is situated, in such manner, as may be prescribed and any crop or other product raise don such land, shall be liable to forfeiture any building or other construction erected or anything deposited thereon shall also be liable to forfeiture. Forfeiture under this section, shall be adjudged by the officer referred to above and any property so forfeited, shall be disposed of in such manner as may be prescribed.

Provided that no eviction or adjudication under this section adversely affecting a person shall be made or adjudged, unless-

(a) such person has been given a notice in such manner as may be prescribed; and

(b) the representation, if any received in pursuance of such notice has been duly considered by such officer concerned.]

Section 68-A prescribed summary eviction and the procedure to be followed. Section 8 of the Act provided enquiry by Forest Settlement Officer. Accordingly, the Forest Settlement Officer shall take down in writing all settlements made under section 6, and shall inquire into all claims made under the section, recording the evidence in the manner prescribed by the Code of Civil Procedure (5 of 1908) in

appealable cases.

The Forest Settlement Officer shall at the same time consider and record any objection which the Forest Officer (if any) appointed under section 4 may make to any such claim.

Section 10 deals with the claim to right of occupancy and ownership.

4.The complaint made by the learned Senior Counsel appearing on behalf of the contempt petitioner is that this Court while passing the order issued directions as follows:

"4.The fact remains that the first respondent had already issued notice in RC.A.No.942 of 1987 dated 02.05.2001 directing the writ petitioner herein to participate in the proposed enquiry under Section 8 of the Tamil Nadu Forest Act 1882. It is submitted by the learned counsel for the petitioner that, though the petitioner participated in the said enquiry, no order was passed by the first respondent. But the petitioner was slapped with eviction notice under Section 68 (A) of the said Act.

5. As the enquiry had already been initiated by the first respondent under section 8 of the said Act, the first respondent will have to complete the enquiry and pass suitable orders thereon. Otherwise, the petitioner will lose an opportunity to challenge such an order passed in the enquiry conducted by him. As it is found that the notice under Section 68 (A) has been issued to the petitioner by the respondents without communicating the order under Section 10 of the Tamil Nadu Forest

Act, the first respondent is directed to pass suitable orders in the enquiry conducted under Section 8 of the Forest Act, and there after take proceedings under Section 68 (A), if it is warranted.

(6) With the above direction, the impugned eviction notice slapped on the writ petitioner under section 68 (A) of the Tamil Nadu Forest Act, stands quashed and the first respondent is directed to pass an order in the enquiry conducted by him under Section 8 of the Tamil Nadu Forest Act and thereafter initiate proceeding under Section 68 (A) of the said Act, if it is warranted."

5. The learned Senior Counsel urged this Court that the order passed by this Court on 14.07.2006, has not been complied with. In view of the fact that the earlier notice issued under the same Section 68 (A) was quashed and now once again the notice was issued under Section 68 (A) on 22.10.2016, even before passing the final orders under Section 8 of the Forest Act by the Forest Settlement Officer. However, this Court is not convinced on the submission. In view of the fact that the notice issued under Section 68 (A) was challenged in the year 2004 and this Court passed an order on 14.07.2006. Now after a lapse of about 10½ years another notice was issued under section 68 (A) of the Forest Act. It is not made clear that why the petitioner had not brought to the knowledge of this Court, with regard to the non-compliance of the order

passed by this Court on 14.07.2006 within a reasonable period. Thus, an inference is to be drawn regarding the conduct of the contempt petitioner that he was also not pursuing the matter prudently and diligently. He was waiting for about 10½ years, in view of the fact that the respondents also were not prudent enough in pursuing the matter in accordance with law.

6.This Court has to condemn the attitude of the respondents, in respect of dealing with the reserve forest land by the respondents as well as by the Forest Settlement Officer. This Court is having a serious doubt with regard to the conduct of these officials including the respondents. It is the primary duty of the Forest officials as well as the authorities concerned to protect the forest land including the reserve forest areas. In this regard, the serious doubt arises in the mind of this Court that there is every possible situation for collusion between the parties in this kind of matters.

WEB COPY

7.Thus, a direction is required to be issued to the Principal Conservator of Forest to look into the files relating to these issues and initiate appropriate actions against all the parties including the officials concerned. If any, irregularities, illegalities or misconduct found on the part of the officials, then the Principal Conservator of Forest has to initiate appropriate Departmental

Disciplinary Proceedings against all the erring officials in this regard. In respect of the contempt application now filed by the petitioner, after a lapse of 10½ years, this Court is of the opinion that now a fresh notice was issued under Section 68 (A) of the Forest Act.

8. The order of this Court dated 14.07.2006 states that the notice under Section 68 (A) was quashed and the first respondent is directed to pass an order in the enquiry conducted by him under section 8 of the Tamil Nadu Forest Act. The writ petitioner is unable to substantiate the long delay of 10½ years, further, unable to explain why the fact regarding not passing of the order by the authority was brought to the knowledge of this Court, within a reasonable period. Further, the contempt application cannot be entertained after a lapse of 10½ years, when, a fresh notice was issued under Section 68 (A) of the Forest Act by the competent authorities. Further, the notice now issued provides a fresh cause to the petitioner and it is left open to the petitioner to submit his explanations/objections and to defend the enquiry in accordance with law. In this view of the matter, the contempt application need not be entertained now, after a lapse of 10½ years from the date of passing of the order and the petitioner has not made out any case for invoking the contempt jurisdiction of this Court under the Contempt of Court Act.

9.Thus, the Contempt Petition stands dismissed.
No costs. Consequently, the Sub Application is also closed.

SD/-

ah ASSISTANT REGISTRAR (COM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing
Certified copies of the Orders/Judgments/Decrees in this
format.

GSR/CO/27/12/2017

To

1.P.K.Dileep,
The District Forest Officer,
Gudalur Division, The Nilgiris District.

2.V.Saravanan,
The Forest Range Officer,
Pandalur Range, Devala - 643 270,
Gudalur, The Nilgiris District.

3.The Principal Conservator of Forest,
Chennai.

one cc to the Mr.K.P.Jotheeswaran,SR.No.12099/2017.

one cc to the Government Advocate,SR.No.11959/2017.