

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2017

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.12177 of 2017

V. Elumalai

... Petitioner

Vs.

1. The Principal Secretary,
Department of Forest & Environment,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Principal Secretary,
Department of Revenue,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.
3. The District Collector,
Villupuram District,
Villupuram
4. The District Forest Officer,
O/o. The District Forest Office,
Indilli, Kallakurichi,
Villupuram District.
5. The Special Tahsildar cum
Forest Settlement Officer,
Kallakurichi,
Villupuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 03.03.2017 as per the Sections 3 and 4 of the Scheduled Tribe and other Traditional forest dwellers, (Recognition of Forest Rights) Act, 2006 read with Rules 11 and 12 and grant Patta under the provisions of the Section 3(1) the Scheduled Tribe and other Traditional forest dwellers, (Recognition of Forest Rights) Act, 2006.

For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Mr.R.A.S.Senthilvel
Additional Government Pleader
for R1, R2, R3 and R5
Mr.Inbanathan
Government Advocate
for R4.

O R D E R

The petitioner has filed this petition seeking a writ of Mandamus directing the respondents to consider the petitioner's representation dated 03.03.2017, as per Sections 3 and 4 of the Scheduled Tribe and Other Traditional Forest Dwellers, (Recognition of Forest Rights) Act, 2006 read with Rules 11 and 12 and grant patta under the provisions of the Section 3(1) the Scheduled Tribe and Other Traditional Forest Dwellers, (Recognition of Forest Rights) Act, 2006.

2.The case of the petitioner is that he is a Scheduled Tribe residing in Aanaimaduvu Village, Kalvarayan Hills, Sankarapuram Taluk, Villpuram District. According to the petitioner, his family has been continuously residing in the said Hills for more than 100 years, for generations doing agriculture and surviving in the forest with the available facilities and resources.

3.According to the petitioner, the entire area by name Periya Kalvarayan Hills and Chinna Kalvarayan Hills are inhabited only by Tribal Community called as 'Malayalis'. According to the petitioner all the inhabitants were depending on the agricultural income for their survival.

4.The petitioner is in possession and enjoyment of the said lands along with his family members. According to the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the right of the Tribal people for the purpose of occupation in forest land and any forest dwelling has been recognised and as per the provisions of the Act, patta or lease grant can be issued by the local authority or the State Government.

5.According to the petitioner in terms of the provisions of the above said Act, Gram Sabha, Vanchikuzhi submitted a report as early as on 30.07.2008 to the Revenue Divisional Officer, Kallakurichi containing details of the forest land occupied by the petitioner herein.

6.In the above circumstances, the petitioner has approached the respondents 3 and 4 for grant of patta in terms of the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act.

7.In this connection, the petitioner has also submitted a representation dated 03.03.2017 but according to the petitioner, no action has been forthcoming and no decision has been communicated to the petitioner as on date. In such circumstances, the petitioner has approached this Court seeking issuance of Writ of Mandamus.

8.Heard Mr.R.A.S.Senthilvel, learned Additional Government Pleader, who takes notice for the respondents 1, 2, 3 and 5 and Mr.Inbanathan, learned Government Advocate, who takes notice for the fourth respondent.

9.Considering the limited directions sought for in the writ petition, this Court is of the view that a direction is to be issued to the respondents 3 and 4, in terms of the prayer sought for in the writ petition.

10.In view of the above, the respondents 3 and 4 are directed to consider the representation said to have been made by the petitioner on 03.03.2017 or any other date, as per the provisions of Sections 3 and 4 of Scheduled Tribe and Other Traditional Forest Dwellers, (Recognition of Forest Rights) Act, 2006 and consider the grant of patta in accordance with law, in force, on the subject matter and on merits. Such an exercise shall be initiated and completed within a period of six weeks from the date of receipt of copy of this order.

11.With these directions, the writ petition is disposed of. Till the decision is taken on the representation made by the petitioner, status-quo as on today shall continue. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

vsi2/pri

To

1. The Principal Secretary,
Department of Forest & Environment,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.

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2. The Principal Secretary,
Department of Revenue,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai - 600 009.

3. The District Collector,
Villupuram District,
Villupuram

4. The District Forest Officer,
O/o. The District Forest Office,
Indilli, Kallakurichi,
Villupuram District.

5. The Special Tahsildar cum
Forest Settlement Officer,
Kallakurichi,
Villupuram District.

+1cc to Mr.V.R. Kamalanathan, Advocate Sr. 37010

+1cc to the Government Pleader, High Court,
Madras Sr.36965

+1cc to Special Government Pleader Sr. 28244

W.P.No.12177 of 2017

VR(02/06/2017)



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