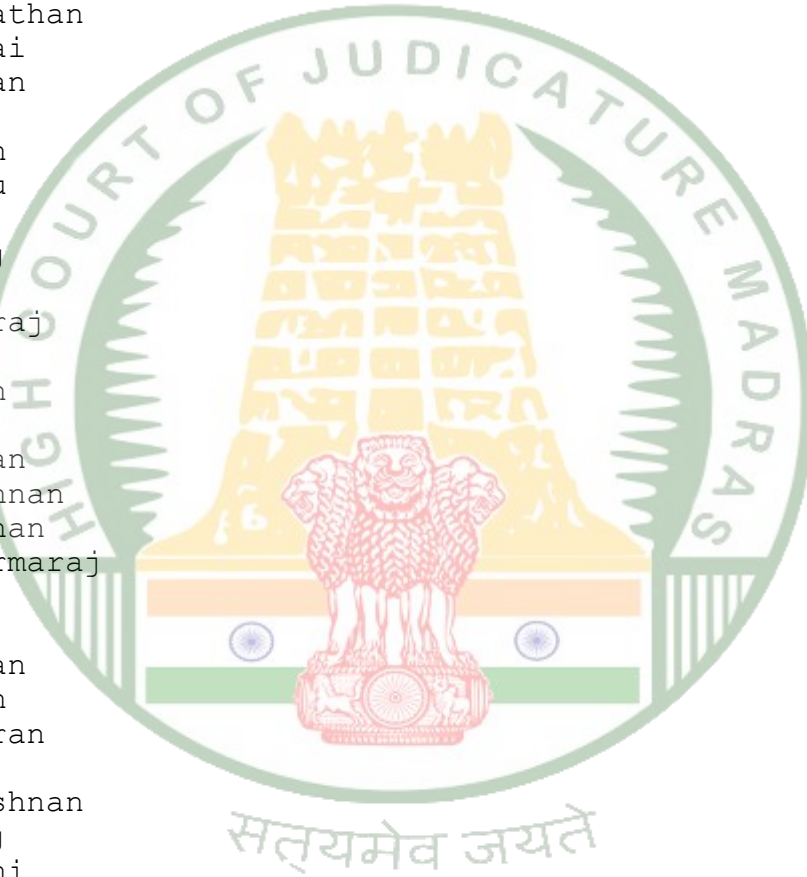


IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:22.12.2017
CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE
W.P.No.33737 of 2017 in WMP No.37368 & 37369 of 2017

1. N.Arjunan
2. S.Joki
3. R.Viswanathan
4. N.Haldurai
5. K.Sivappan
6. M.Bhojan
7. A.J.Halan
8. E.Desingu
9. J.Kongan
- 10.L.Jayaraj
- 11.B.Muthan
- 12.N.Dharmaraj
- 13.T.Raju
14. C.Kundan
- 15.H.Eran
16. B.Bheeman
- 17.K.R.Krishnan
18. A.J.Mathan
19. L.R.Dharmaraj
20. S.Ravi
21. R.Halan
22. T.Iyappan
23. P.Mathan
24. D.Chandran
25. C.Kumar
26. A.G.Krishnan
27. B.Natraj
28. Allekmani
29. J.Thangamal
30. Devaki
31. H.Devu
32. B.Sankaran
33. C.T.Desingu
34. M.Nanjan
35. A.N.Raman
36. M.Lakshmanan
37. B.J.Ravi
38. N.Krishnan
39. M.L.Raman
40. R.Krishnan



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41. R.Mahalingan
42. B.Parpathi
43. H.Methalingan
44. K.Haldurai
45. J.Bhojan
46. B.Sivalingan
47. B.Jeganathan
48. Chinna
49. H.Kamaraj
50. J. Belli
51. S.Ravi
52. B.Dharmalingan
53. N.Krishnamoorthy
54. J.Mani
55. B.Ketta Beeman
56. R.Viswanathan
57. R.Dharuman
58. B.Ruku
59. L.Chinnamal
60. B.Bhojan
61. B.Devaraj
62. B.Devaraj

.. Petitioners

Vs

1. The State of Tamil Nadu Rep. By
The Secretary to Government,
Forest Department,
Chennai - 600 009
2. The Forest Range Officer,
Kattabettu Range,
Bettatty, Nilgiris District.
3. The District Collector
Nilgiris District, Ooty

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issue a writ of Certiorari or any order of writ of like nature and thereby call for the records of the 2nd respondent impugned Eviction notice issued under Sec.68(A) of Tamil Nadu Forest Act dated 29.11.2017 and to quash the same as ultravires and to pass such further or other orders.

For Petitioner
For Respondents

: Mr.M.Velmurugan
: Mr.E.Manoharan,
AGP (Forest) for R1 and R2
Mr.A.N.Thambidurai,
Special Government Pleader
for R3

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2 ; Mr.A.N.Thambidurai, learned Special Government Pleader appearing on behalf of 3rd respondent.

2 The grievance expressed by the petitioners is that though fifteen days notice is mandate to issue notice under Section 68A of the Tamil Nadu Forests Act 1882 r/w Rule 2 of Tamil Nadu Forest Land Eviction of Encroachment) 1981, five days notice has been given and therefore, the petitioners are denied their fair opportunities and put forth their stand and hence, prays for appropriate orders.

3 The learned counsel appearing for the petitioners invited the attention of this Court to the order dated 08.12.2017 in WP No.32120 of 2017 filed by Thiru S.Nanjan and 42 others Vs. The State of Tamil Nadu, rep. By its Secretary to Government, Forest Department, Chennai 9 and 2 others and submitted that in similar facts and circumstances, this court permitted the petitioners therein to submit a fresh representation to the concerned respondent with a further direction to dispose of the same within the stipulated period and it is relevant to extract paragraph 7 of the order dated 18.12.2017 :-

" 7. It is relevant to extract under Section 68A of the Tamil Nadu Forest Act and Rule (2) of Tamil Nadu Forest Land (Eviction of Encroachment) Rules, 1981.

2.Service of notice : (1) An officer of the Forest Department not below the rank of a Forest Ranger or an officer of the Revenue Department not below the rank of a Tahsildar having jurisdiction over the area in which the said reserved forests of land is situated, shall serve a notice in person by approved procedure in the Form prescribed in the Annexure to these Rules on the person unauthorisedly occupying the Reserved Forests of land to show cause, within [fifteen days], from the service of such notice as to why he should be summarily evicted from such land and the property included standing crops and buildings and other constructions standing thereon should not be forfeited.

(2) Any representation, in writing, received from the person concerned within fifteen days of receipt of such notice shall be duly considered by the Ranger, or Tahsildar, as the case may be, and

necessary orders passed. If the orders are to the effect of vacating the encroachment the person concerned shall thereafter, within fifteen days of receipt of such orders, vacate the said encroachment and remove the property including standing crops, buildings and other construction thereon, if he fails to do so, the Forest Ranger or Tahsildar as the case may be, summarily evict him from the said land and forfeit the property thereon."

4 Heard the submissions of Mr.E.Manoharan, Additional Government Pleader (Forests) for respondents 1 and 2 and Mr.A.N.Thambidurai, learned Government Pleader appearing for 3rd respondent and also perused the materials placed before it.

5 Though the petitioners had prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners, permits the petitioners to submit individual representation to the 2nd respondent, by enclosing relevant and authenticated documents as to the long possession and right within a period of four weeks from the date of receipt of copy of this order and upon receipt of the same, the 2nd respondent is directed to shall and dispose of the same on merits and in accordance with law and pass orders within a further period of four weeks thereafter and till such time, the 2nd respondent shall defer further decisions in terms of the impugned notice dated 29.11.2017. It is also made clear that till the disposal of the representation to be submitted, by the 2nd respondent, the petitioners shall not create any third party rights in respect of the land and superstructures in question and shall also not alter the physical features of the same.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected Miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Forest Department,
Chennai - 600 009

2. The Forest Range Officer,
Kattabettu Range,
Bettatty, Nilgiris District.

3. The District Collector
Nilgiris District, Ooty

+1cc to Mr.M.Velmurugan, Advocate SR.No.92226
+1cc to Special Government Pleader Sr.no.92429

W.P.No.33737/2017

sm:9.1.2018



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