



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DELIVERED ON : 21.09.2017
CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P(MD)No.15965 of 2015

and

W.M.P(MD)No.4943 of 2016

Paresh N.Patel

... Petitioner

Vs.

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

2.The District Collector & Chairman,
Theni Tree Cutting Regulation Committee,
Theni District.

3.The Wildlife Warden,
Office of the Megamalai Wildlife Division,
Theni District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the third respondent to issue order to fell and remove 3,000 Silver Oaks Trees as permitted vide proceedings of the Tree Cutting (Regulation) Committee, Theni District, dated 09.04.2015, bearing Ref. No.Na.Ka.26498/2013/B3 at Megamalai Village, Andipatti Taluk, Theni District, in Survey No.251/1D to 251/1K and 251/M to the total extent of 81.09.0 Hectares.

For Petitioner : Mr.V.Rajasekaran

For Respondents : Mr.M.Alagathevan
Special Government Pleader

* * * * *

ORDER

This writ petition has been filed seeking a writ of Mandamus directing the third respondent to issue order to fell and remove 3,000 Silver Oaks Trees as permitted vide proceedings of the Tree Cutting (Regulation) Committee, Theni District, dated 09.04.2015, bearing Ref. No.Na.Ka.26498/2013/B3 at Megamalai Village, Andipatti Taluk, Theni District, in Survey No.251/1D to 251/1K and 251/M to the total extent of 81.09.0 Hectares.

2. According to the petitioner, he is an agriculturist and engaged in the agricultural activities in the lands in Survey Nos.251/1D to 251/1K and 251/M, to an extent of 81.09.0 Hectares,



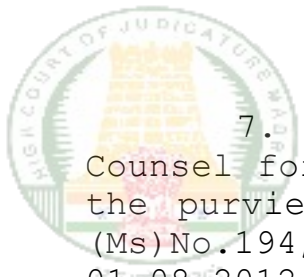
wherein he was authorised to grow/plant coffee, banana, pepper, orange, lemon, silver oaks and jack trees and other trees at Megamalai Village, Andipatti Taluk, Theni District. Since the trees planted therein grew up and obstructed the growth of coffee plants, the experts suggested for the removal of the grown trees. Therefore, the petitioner made a representation to the second respondent seeking permission to cut the grown silver oak trees planted by the petitioner and also undertook to plant new trees.

3. The second respondent - District Collector is the Chairman of Tree Cutting Regulation Committee, Theni District, constituted under the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955. While considering the request of the petitioner for cutting the grown silver oak trees, the Committee received reports from (i) Tahsildar, Andipatti; (ii) Agricultural Executive Engineer, Theni; (iii) Megamalai Wildlife Warden - third respondent, who had no objection in that regard.

4. Thereafter, the third respondent recommended for cutting 3000 grown silver oak trees on condition that the petitioner shall plant new trees. Based on the recommendation of the third respondent, the second respondent had granted permission to the petitioner to cut 3000 grown silver oak trees, vide proceedings dated 09.04.2015, consequent to which, the third respondent vide communication dated 21.04.2015, directed the petitioner to pay a sum of Rs.81,900/- (Rupees Eighty One Thousand and Nine Hundred only) as security deposit with the Post Office, at the rate of Rs.1,000/- (Rupees One Thousand only) per Hectare. Accordingly, the petitioner also deposited the said amount in a term deposit and obtained declaration from the third respondent for pledging the said deposit in his favour. Despite the same, the third respondent failed to issue orders for cutting the trees. Hence, the present writ petition is filed.

5. Per contra, the third respondent filed the counter affidavit, *inter alia*, contending that the petitioner is not an agriculturist, but, a timber contractor involving cutting and selling of valuable timbers from the forest. The land in question belonged to Pandian Estate Limited and after obtaining power of attorney, dated 10.07.2013, the petitioner sought for permission to cut and remove the valuable forest trees for his commercial activities. The proceedings of the second respondent, dated 09.04.2015, is invalid and unsustainable in law and hence, the claim of the petitioner cannot be considered and thus, the third respondent prayed for the dismissal of this writ petition.

6. Heard the submissions of Mr.V.Rajasekaran, learned Counsel for the petitioner and Mr.M.Alagathevan, learned Special Government Pleader appearing for the respondents and perused the materials available on record.



7. It is brought to the notice of this Court by the learned Counsel for the petitioner that silver oak trees are exempted from the purview of Tamil Nadu Timber Transit Rules, 1968, vide G.O. (Ms)No.194, Environment and Forests (FR.13) Department, dated 01.08.2012, wherein it is stated as follows:

"8. Hence, in the letter ninth read above, the Principal Chief Conservator of Forests has requested the Government to exempt Silver Oak trees from the purview of Tamil Nadu Timber Transit Rules 1968 considering the policy decision of Government to encourage private tree growers and public to grow more trees.

9. The Government after the examination of the proposal of the Principal Chief Conservator of Forests have decided to include Silver Oak in the classes of trees exempted from the purview of Tamil Nadu Timber Transit Rules, 1968 by way of amending the said Rules."

8. It is seen that the second respondent, by proceedings dated 09.04.2015, granted permission to the petitioner to cut and remove 3000 silver oak trees in S.Nos.251/1D to 251/K and 251/M to an extent of 81.09.0 Hectares, however, subject to certain conditions, which, according to the third respondent, is invalid.

9. The contention of the petitioner is that though he has already been granted permission by the second respondent to cut and remove 3000 silver oak trees, the third respondent has not complied with the said order and thereby, the petitioner has not been allowed to cut and remove the said trees. The petitioner has already remitted the requisite amount with the Post Office, Thiagarajanagar, NDSO, Theni, as directed by the second respondent and the petitioner also undertook to plant 3000 new trees and hence, prayed for appropriate orders directing the third respondent to implement the orders of the second respondent, dated 09.04.2015.

10. This Court is very cautious enough in issuing positive directions in the case of cutting of trees in forests. Ecological imbalance plays a vital role in global warming, that would reflect in the lives of our planet. No doubt, if trees are cut and removed without any restrictions, then, definitely, soil erosion causes its impact on the forest lands. Consequential effect on the lives of forest animals, birds, etc., would be more and despite much effort being taken to grow forests, it would lead to adverse impact on us.

11. In the case on hand, the third respondent filed the <https://www.secretservices.gov.in/secretaries> it pointing out the importance of ecological balance to be maintained and also about the intention of the petitioner in cutting and removing 3000 silver oak trees. But,



this Court finds that the second respondent - Committee, granted permission to the petitioner to cut and remove the said trees and the same is now disputed.

12. Moreover, this Court refrains from expressing any opinion on the merits of the claim of the petitioner for cutting and removing the silver oak trees as per the proceedings of the second respondent, dated 09.04.2015.

13. Considering the facts and circumstances of the case, this Court is inclined to direct the second respondent - Committee to re-look into the issue and pass fresh orders on merits and in accordance with law and also in terms of Section 3 of the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955, within a period of three weeks from the date of receipt of a copy of this order, on the basis of which, the third respondent shall pass necessary orders within a period of six weeks therefrom. It is made clear that the petitioner shall also be given due opportunity of personal hearing before passing any order by the third respondent, so as to avoid the allegation of violation of principles of natural justice.

14. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Department of Environment and Forest,
Fort St. George,
Secretariat,
Chennai - 600 009.
 - 2.The District Collector & Chairman,
Theni Tree Cutting Regulation Committee,
Theni District.
 - 3.The Wildlife Warden,
Office of the Megamalai Wildlife Division,
Theni District.
- +1cc to Mr.V.RAJASEKARAN, Advocate, SR. 80057

W.P (MD) No.15965 of 2015
and

W.M.P (MD) No.4943 of 2016
21.09.2017