



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2017

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD) No.10860 of 2017

and

W.M.P(MD)No.8295 of 2017

T.Selvam

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of Environment and
Forests Department,
Chennai - 9.

2.The District Collector cum Chairman of
District Forest Committee,
Office of the District Collectorate,
Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the second respondent to grant permission for transfer of land in Old Survey No.2682-2 in Re-Survey No.614/1 to an extent of 26 acres (10.52.64 hectares) in Therisanamkoppu Village, Azhgiapandiapuram town panchayat, Tovalai Taluk, Kanyakumari District to the petitioner within the time frame stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.G.Muthukannan,
Government Advocate**ORDER**

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus directing the second respondent to grant permission for transfer of land in Old Survey No.2682-2 in Re-Survey No.614/1 measuring to an extent of 26 acres (10.52.64 hectares) in Therisanamkoppu Village, Azhgiapandiapuram town panchayat, Tovalai Taluk, Kanyakumari District, to the petitioner within a stipulated time.



2. The petitioner would among other things aver that he has purchased the above mentioned property for valuable consideration vide document No.385. There are totally 3025 age old rubber trees are grown. The said land is covered under the Tamil Nadu Preservation of Private Forest Act, 1949. The petitioner planned to root out the age old trees and to plant new rubber plants and for that, prior permission is necessary under Section 3(1)(a) of the Tamil Nadu Preservation of Private Forest Act, 1949. As per Section 3(1)(a) of the Act, no owner of any private forest shall, without the previous sanction of the Committee sell, mortgage, lease or otherwise alienate the whole or any portion of the forest. Therefore, the petitioner applied for getting permission for the sale of the property, along with all necessary documents.

3. The petitioner would further aver that though the petitioner did not obtain permission for transfer, now the gazette notification dated 03.08.2015 shows that Section 4-A is inserted in Tamil Nadu Preservation of Private Forests Act, 1949 and the said provision reads as follows:

"After Section 4 of the Tamil Nadu Preservation of Private Forests Act, 1949, the following section shall be inserted, namely:

4-A.Sanction to purchaser - (1) Notwithstanding anything contained in sub-Section (1) of Section 3, the purchaser of the whole or any portion of the forest, which has been sold by the owner of such forest without the previous sanction of the committee under clause(a) of sub-section(1) of Section 3, may apply to the committee for sanction to retain the whole or any portion of the forest, within such time as may be prescribed.

(2)The committee may, by order, accord the sanction for the whole or any portion of the forest specified in the application, subject to such conditions as it may deem fit."

4. Therefore, the petitioner had given an application to the Committee on 22.04.2017 for transfer of the above property in his name and the same is pending without any consideration. Hence, the petitioner has come forward with this Writ Petition with the above said prayer.

5. The learned counsel appearing for the petitioner in support of his submission, relies upon the judgment of this Court in ***Kanyakumari District Planters Association, Ramavaramapuram, Nagercoil, Kanyakumari District rep. By its Secretary and others***



vs. State of Tamil Nadu and Others reported in (2016) 2 MLJ 513.
Relevant portions of the said judgment reads as follows:

45. In the background of what we have observed, the Writ Court was fully justified in observing that the committee will decide which land is to be declared as 'forest for the purpose of the Act and if any tree is to be cut or remove, application has to be made before the authority and permission would be granted, if application is in order. The Act also provides for an appellate remedy and the Government taking into consideration the representation of the rubber plantation owners, has issued G.O.Ms.No.512, dated 21.04.1984, by which permission can be granted by the District Forest Officer himself for felling matured rubber trees without reference to the District Committee and those applications are said to be disposed of, within a short time and none of the plantation owners have experienced any difficulties in this regard. Therefore, the Writ Court was right in holding that the contention that there has been violation of principles of natural justice is unacceptable.

46. Furthermore, by virtue of the recent amendment by Act 8 of 2015, even the subsequent purchasers are entitled to get their transactions validated by submitting application to the Committee in terms of the newly inserted Section 4A and the Government is stated to have advised the District Committee to process such application within 60 days.

6. The learned Government Advocate appearing for the respondents submitted that as per Section 4-A of the Tamil Nadu Preservation of Private Forests Act, 1949, the petitioner can apply only for 'Sanction' not for 'transfer' and therefore, if the petitioner files necessary application with all necessary documents, the same would be considered by the second respondent within the time frame to be fixed by this Court.

7. In view of the same, without adverting to the merits of the case, the petitioner is directed to make fresh application before the second respondent in terms of the Amended Act for 'sanction' of his property, which has been purchased by him from his vendor and on receipt of such application, the second respondent is directed to dispose of the same, within a period of four weeks from the date of receipt of such application, by giving opportunity of hearing to all the parties concerned including the vendor, who sold the property to the petitioner.



With the above direction, this Writ Petition is disposed of.
No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Co)

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/True copy/

Sub Assistant Registrar

To

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Department of Environment and
Forests Department,
Chennai - 9.

2.The District Collector cum Chairman of
District Forest Committee,
Office of the District Collectorate,
Kanyakumari District.

+1 cc to Mr.T.Lajapathi Roy , Advocate in SR.No. 60483

PM

AE/JC/SAR1/03.07.2017/4P/4C

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