

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-09-2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.4867 & 4868 of 2016

and

W.M.P.Nos.4228 & 4229 of 2016 and 4229 & 4230 of 2016

1. V.Sellan Petitioner in W.P.No.4867 of 2016
2. S.Sunandha Petitioner in W.P.No.4868 of 2016

Vs

1. The conservator of Forest,
Dharmapuri Zone,
Dharmapuri.
2. The District Forest Officer,
Hosur division,
Hosur.

... Respondents
(in both writ petitions)

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the the records of the impugned orders of the both 2nd respondent dated 12.12.2014 in his proceedings in SE.MU.A.No.2660/2014/KU and the order of the 1st respondent dated 30.09.2015 in his proceedings in SE.MU.A.No.8944/2015/VA and SE.MU.A.No.8945/2015/VA, as confirmed the findings and modified the quantum claimed quash the same.

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For Petitioner : Mr.ARL.Sundaresan,
Senior Counsel. (in both Wps) for
Mr.P.Sivakumar

For Respondents : No appearance for R1 & R2
(in both Wps)

COMMON ORDER

The relief sought for in this writ petition is to call for the records in respect of the order impugned passed by the 2nd respondent in proceedings dated 12.12.2014 and the Appellate Order passed by the 1st respondent dated 30.09.2015 and quash the same.

2. The Learned Senior Counsel appearing on behalf of the the writ petitioner, at the first instance raised the legal point that, the original authority who passed the impugned order dated 12.12.2014 had acted as an Appellate Authority on his promotion and passed the order in the very same subject in relation to the claim of the writ petitioner.

3. On a perusal of the impugned order passed by the original authority in proceedings dated 12.12.2014, one Mr.Ulaganathan, District Forest Officer passed the order. The Appellate Order dated 30.09.2015 also had been issued by the very same person namely Mr.Ulaganathan, in his capacity as Conservator of Forest. Thus, it is apparent that the very same person acted both as original authority as well as an Appellate Authority. Thus, the right of appeal to the writ petitioner has been denied.

4.The principles of Natural justice warrants that, the original authority cannot sit as an Appellate Authority, while deciding the appeals. This being the basic principles to be followed, this Court is of an opinion that, the appellate order deserves to be quashed. Accordingly the Appellate Order passed by the first respondent in proceedings dated 30.09.2015 is quashed. The matter is remanded back to the first respondent for reconsideration and pass orders in respect of the appeal filed by the writ petitioner within a period of 12 weeks from the date of receipt of a copy of this order and providing an opportunity to the writ petitioner to represent his case in the manner known to law.

5. Accordingly the writ petitions are partly allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pkn/kmm

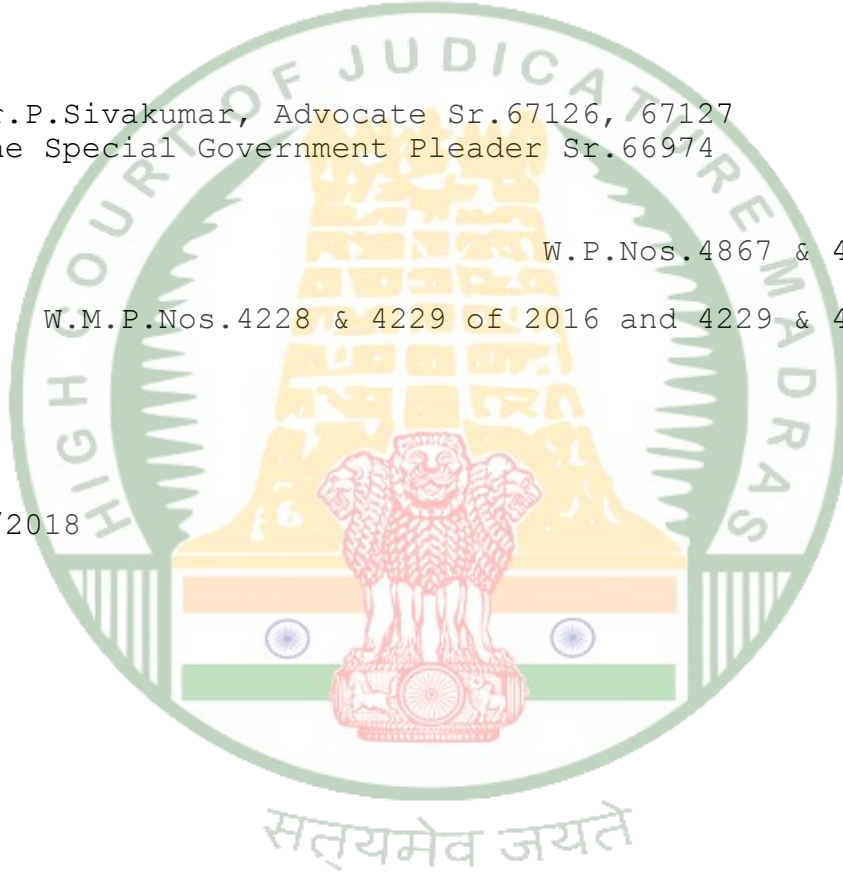
To

1. The conservator of Forest,
Dharmapuri Zone,
Dharmapuri.
2. The District Forest Officer,
Hosur Division,
Hosur.

+2cc to Mr.P.Sivakumar, Advocate Sr.67126, 67127
+1cc to the Special Government Pleader Sr.66974

W.P.Nos.4867 & 4868 of 2016
and
W.M.P.Nos.4228 & 4229 of 2016 and 4229 & 4230 of 2016

gj ii[co]
srg 15/10/2018



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