

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No. 29526 of 2018

WMP.No.34495 of 2018

M/s.Harrisons Malayalam Limited
represented by its Senior Manager, Sumith Babu
Wentworth Estate, Cherambadi Post
Gudalur-643 205

Petitioner

Vs

- 1.The District Collector cum Chairman of the District Committee, constituted under the Tamil Nadu Hill Areas (Prevention of Trees) Act, 1955 Nilgiris District, Udhagamandalam 643 001
- 2.The District Forest Officer, Gudalur Division Nilgiris 643 212
- 3.The Tahsildar, Pandalur Taluk Nilgiris 643 233
- 4.The Executive Engineer, Agriculture Department Nilgiris District, Udhagamandalam 643 001

Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order of the 1st Respondent in No.RC.A4/SR/48/2017, dated 14.02.2018 and to quash the same.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for Mr.J.Ravikumar

For Respondents: Mr.S.V.Vijay Prashanth, AGP(F)

ORDER

The prayer in this Writ Petition is to quash the order of the 1st Respondent in No.RC.A4/SR/48/2017, dated 14.02.2018, thereby cancelling the permission granted for selection felling of 963 ayanipala trees by the proceedings of the 1st Respondent, dated 13.11.2017.

2. By consent of the learned counsel on either side, this Writ Petition is taken up for final disposal, at the admission stage itself. Mr.S.V.Vijay Prashanth, AGP(F) takes notice for the Respondents.

3. This Court heard the learned senior counsel for the Petitioner and the learned Additional Government Pleader for the Respondents and also perused the materials placed on record.

4. The learned senior counsel for the Petitioner would submit that the Petitioner Company owns Estates both rubber and tea in the States of Kerala and Tamil Nadu and Wentworth Estate, which is a tea plantation, having an extent of 1362 hectares, in Cherangode Village of Pandalur Taluk, Nilgiris District belongs to the Petitioner Company. There are about 750 workers with their family residing in the said Estate. The Petitioner planted several species of trees, such as, grevillea, mesopsis, eucalyptus, aynipala, etc. in the said Estate.

5. The learned senior counsel for the Petitioner would further submit that the trees planted by the Petitioner have to be cut or pruned as required by ordinary agricultural or horticultural practices prevalent in tea plantations. Such trees or its branches have to be cut, pruned and removed as per the usual practice to make way for improved cultivation and plantation. The Tamil Nadu Hill Areas (Prevention of Trees) Act, 1955 (herein after referred to as the Act) was enacted to provide for regulating cutting of trees and cultivation of land in hill areas with a view to prevent de-forestation and soil erosion and to preserve special features of hills. The 1st Respondent is the authority constituted under Section 2A of the said Act to regulate the provisions contained in the said Act.

6. It is the further case of the Petitioner that the Petitioner had made an application, dated 19.06.2017 to the 1st Respondent Committee, seeking permission to cut 1136 aynipala trees in the Wentworth Estate. The 1st Respondent, after receiving necessary reports from the Respondents 2, 3 and 4, had granted permission to cut 963 aynipala trees in S.Nos.1435/1, 1435/2, 1447/2, 1447/3, 1449/2, 1445/1, 1445/2, 1452, 1453, 1465/1, 1466 and 1467 in Cherangode Village, Pandalur Taluk, by proceedings No.RC.A4/SR/48/2017, dated 13.11.2017. Pursuant to such permission, the Petitioner had cut 92 trees and those trees, which were cut, are lying in the said Estate to be removed to avoid further decay and loss of value. At this stage, by the impugned order of the 1st Respondent, the said permission was cancelled. The learned counsel has assailed the impugned order mainly on the ground that the impugned order had been passed, without affording any opportunity to the Petitioner, thereby violating the principles of natural justice and hence, prayed for quashing of the impugned order.

7. On the other hand, the learned Additional Government Pleader for the Respondents would submit that the

Petitioner had produced forged documents and obtained permission from the authorities. On inspection and verification, the said fact was brought to the notice of the 1st Respondent and hence, in the interest of the Department, the impugned order came to be passed, cancelling the permission already granted to the Petitioner.

8. On a perusal of the impugned order, it is seen that the 1st Respondent had relied upon the earlier proceedings submitted by the Revenue Authorities, such as resolutions of the District Committee meetings held on 26.09.2017 and 12.01.2018. However, no reference has been made in the impugned order to show that sufficient opportunity was afforded to the Petitioner, before passing the impugned order. Further, the learned Additional Government Pleader is also not in a position to place any material before this Court to show that opportunity was granted to the Petitioner, before passing the impugned order. Therefore, on this ground alone, the impugned order is vitiated, for violation of principles of natural justice and accordingly, the impugned order is liable to be set aside.

9. Accordingly, this Writ Petition is allowed, with the following directions:-

1. The impugned order passed by the 1st Respondent in No.RC.A4/SR/48/2017, dated 14.02.2018 is quashed and the matter is remitted back to the 1st Respondent to consider afresh.
2. The 1st Respondent shall issue a notice along with a report to the Petitioner, within three days, from the date of receipt of a copy of this order.
3. On receipt of such notice from the 1st Respondent, the Petitioner shall submit his objections, if any, within a period of one week thereafter.
4. On receipt of such objections, if any, from the Petitioner, the 1st Respondent shall dispose of the same, after affording sufficient opportunity, including personal hearing, to the Petitioner, on merits and in accordance with law, within a period of three weeks thereafter.
5. The Petitioner shall cooperate in the enquiry before the 1st Respondent.
6. Status-quo as on date shall be maintained by both the parties, till a final decision is taken by the 1st Respondent.

No costs. Consequently, the connected MPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector cum Chairman of the District Committee, constituted under the Tamil Nadu Hill Areas (Prevention of Trees) Act, 1955 Nilgiris District, Udhagamandalam 643 001
 - 2.The District Forest Officer, Gudalur Division Nilgiris 643 212
 - 3.The Tahsildar, Pandalur Taluk Nilgiris 643 233
 - 4.The Executive Engineer, Agriculture Department, Nilgiris District, Udhagamandalam 643 001
- +1cc to Mr.J.Ravikumar, Advocate sr.no.82660
+1cc to Special Government Pleader, sr.no.83743(06/12/2018)

WP.No. 29526 of 2018

ssd(co)
nr 05/12/2018

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