

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 03.06.2019
CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI
W.P.No.39718 of 2004 and
W.P.M.P.No.47339 of 2004

1. Jayalakshmi
2. T.Ramasamy
3. S.Rathinaraj
4. R.Gnanasekar
5. R.Antony Suresh

.. Petitioners

Vs

1. The State of Tamilnadu
rep., by its Secretary to Government
Forest Department,
Chennai -9

2. The District Forest Officer,
Gudalur, Nilgiris District

3. The Forest Settlement Officer,
Gudalur, Nilgiris District

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents not to evict the petitioners from Survey No.150/1 Devala Village, Gudalur Taluk, Nilgiris District without conducting enquiry and by giving reasonable opportunity to all the petitioners under the provisions of the Forest Act.

For Petitioners : Mr.Sasikala Subramanian

For Respondents : Mr.G.B.Rajesh
Government Advocate

O R D E R

This Writ Petition has been filed by the petitioners for issuance of Writ of Mandamus directing the respondents not to evict them from Survey No.150/1, Devala Village, Gudalur Taluk, Nilgiris District without conducting enquiry and affording reasonable opportunity to the petitioners under the provisions of the Forest Act.

2. The learned counsel appearing for the petitioners submitted that the petitioners are the neighbours residing in the same locality and the petitioners belong to depressed class.

Further, the petitioners are repatriated from Srilanka and settled in Tamilnadu with the help of Revenue Authorities long before 25 years. He would further contend that on considering the petitioners' poverty, the Government, allowed the families of the petitioners to put up houses and the surrounding areas were also permitted for cultivation in order to meet their livelihood.

3. The learned counsel appearing for the petitioners takes a stand that by virtue of the oral permission issued by the authorities, the petitioners have constructed small houses and carried out cultivation in the surrounding areas, viz., Survey No.150/1, Devala Village, Gudalur Taluk, Nilgiris District. While such being the factual position, without either following the procedures contemplated under Indian Forest Act or under Tamilnadu Forest Act, the respondents are trying evict the petitioners. Aggrieved by the action of the respondents, the petitioners have filed this Writ Petition.

4. Per contra, the learned Government Advocate appearing for the respondents has filed a detailed counter refuting the submissions made by the learned counsel for the petitioners and would submit that the area occupied by the petitioners is a 'Reserved Forest Area' and no permission was granted to occupy or to cultivate in the said land. Further, the petitioners have not produced any documents / records before this Court to establish that they were permitted to occupy or to cultivate in the property in question. He has also submitted that the filing of the Writ Petition is an unsustainable one and prayed for dismissal of the petition.

5. Heard the learned counsel on either side and perused the documents placed on record.

6. Earlier, while dealing with the similar issue, this Court, in W.P.No.31256 of 2005 [R.Basavan and others V. The State of Tamilnadu rep. By the Secretary to Government, Forest Department, Chennai and others] had elaborately discussed all the points and the relevant Paragraph Nos.5 and 6 are extracted hereunder:

'5. The fact remains that a learned Single of this Court has gone deep into the entire aspect of removal of encroachers from the Nilgiris District and he has also relied upon the earlier Judgment passed by a Division Bench of this Court in W.A.No.641 of 1996. Under such circumstances, this Court is bound by the earlier Judgment passed by the Division Bench as well the order passed by the learned Single Judge,

especially, in the light of the fact that earlier writ petition ha been filed by the residents of the same village and yet another writ petition by individual residents for the same cause of action cannot be entertained.

6. In the result, the Writ Petition is devoid of merits and the same is liable to be dismissed and accordingly, dismissed. Consequently, the interim injunction already granted in W.P.M.P.No.34254 of 2005 is vacated and the petition in W.P.M.P.No.34254 of 2005 is also dismissed. The respondents are directed to proceed with the eviction proceedings as per law, as expeditiously as possible. No costs.'

In view of all the above and taking note of the fact that the petitioners have not produced any document / records to establish that that they were permitted to occupy or to cultivate in the property in question, this Writ Petition is dismissed. Further, Interim Injunction already granted in W.P.M.P.No.47339 of 2004 on 03.01.2005 shall stand vacated and the said petition is also dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Secretary to Government,
State of Tamilnadu
Forest Department,
Chennai -9

2. The District Forest Officer,
Gudalur, Nilgiris District

3. The Forest Settlement Officer,
Gudalur, Nilgiris District

+1cc to Special Government Pleader sr.44778

W.P.No.39718 of 2004 and
W.P.M.P.No.47339 of 2004

nr 11/07/2019

nr 05/08/2019