

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 4.9.2019  
CORAM  
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
W.P.No.9264 of 2009

1 MR.JOSEPH JACOB  
MANAGING DIRECTOR,  
POABS GRANITE PRODUCTS (P) LTD.,  
KATTACHAI KALIYAL POST,  
KANYAKUMARI DISTRICT. ... PETITIONER

Vs.

1 THE DISTRICT COLLECTOR,  
KANYAKUMAR DISTRICT.  
2 THE DIRECTOR OF GEOLOGY AND MINES,  
GUINDY, CHENNAI 32.  
3 THE PRINICIPAL CHIEF CONSERVATOR OF FORESTS,  
PANAGAL BUILDING,  
SAIDAPET, CHENNAI 15.  
4 THE DISTRICT FOREST OFFICER,  
NAGERCOIL, KANYAKUMARI DIST. ... RESPONDENTS

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of third Respondent made in TS4/69004/2008 DT.3/4/009 and quash the same and consequently direct the third and fourth respondents to issue No Objection Certificate for rough stone quarrying operations in Survey Nos.471/2 and 473 of Kaliyal Village Vilavancode Taluk Kanyakumari District.

For Petitioner : Mrs.Selvi George for  
Mr.C.R.Rose Radhi jijo

For Respondents 1 & 2 : Mr.A.Ansar, G.A.

For Respondents 3 & 4 : Mrs.Thangavadana Balakrishnan,  
A.G.P. (F)

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## O R D E R

The writ petition has been filed challenging the impugned order passed by the Principal Chief Conservator of Forests, dated 3.4.2009 in the appeal petition filed by the writ petitioner for grant of stone quarry lease in the petitioner's patta land comprised in S.F.No.471/2 and 473 of Kaliyal village for an extent of 12.50.0 hectare. The said appeal was rejected by the appellate authority. Challenging the aforesaid order, the petitioner has filed the present writ petition before this Court.

2. The learned counsel appearing for the petitioner would submit that the present appeal was rejected on the ground of alienation of the land in favour of the petitioner is null and void as per Sec.3(1) (b) of Tamil Nadu Preservation of Private Forests Act, 1949. Further, it is submitted that the petitioner has obtained clearance from the authority concerned to quarry the aforesaid land. Further, the learned counsel appearing for the petitioner brought to the notice of this Court that Government by Act 8 of 2015 amended Sec.4-A of Tamil Nadu Preservation of Private Forests Act, 1949, wherein it is stated as follows:

''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 for sanction to retain the whole or any portion of the forest, within such time as may be prescribed.''

3. Pursuant to the aforesaid amendment to Section 4-A of the Tamil Nadu Preservation of Private Forests Act, 1949, the writ petitioner has made an application to the Committee on 24.6.2019 and the same is pending before the District Committee.

4. The learned Additional Government Pleader (Forest) would submit that in view of the amendment in Tamil Nadu Preservation of Private Forests Act, 1949 by including Section 4-A in the Act, 1949, the writ petition cannot be entertained. The petitioner has to approach the District Level Committee in the light of the aforesaid amended Act.

5. Considering the aforesaid submissions of the parties concerned that the impugned order passed by the appellate authority on the ground of alienation of the property in favour of the petitioner is null and avoid and subsequently, in view of the Act No.8 of 2015 amending Section 4-A of Tamil

Nadu Preservation of Private Forest Act, the petitioner has to seek remedy before the Committee under Section 4-A of Tamil Nadu Preservation of Private Forest Act, in accordance with law.

The writ petition is disposed of with the above observations. No costs.

Sd/-  
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

- 1 THE DISTRICT COLLECTOR, KANYAKUMAR DISTRICT.
- 2 THE DIRECTOR OF GEOLOGY AND MINES GUINDY CHENNAI 32.
- 3 THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS,  
PANAGAL BUILDING, SAIDAPET CHENNAI 15.
- 4 THE DISTRICT FOREST OFFICER, NAGERCOIL KANYAKUMAR DT.

+1cc to The Special Government Pleader sr.76687

+1cc to Mr.E.Martin Jayakumar, Advocate sr.77435

W.P.No.9264 of 2009

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nr 21/10/2019

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