

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.08.2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.32578 of 2017
and W.M.P.Nos.35903 of 2017
and 13078 of 2018

V.P.Baskaran

... Petitioner

Vs

1.The Principal Secretary to Government,
Forest and Environment Department,
Fort St.George, Chennai - 600 009.

2.The Chief Conservator of Forest,
North Coimbatore, Coimbatore.

3.The District Collector,
The Nilgiris District at Ooty.

4.The District Forest Officer,
Gudalur, The Nilgiris District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1st respondent to conduct elaborate enquiry for illegal felling trees in The Nilgiris District and take necessary actions against the officials, who committed irregularities for helping the anti-social elements for cutting the trees in The Nilgiris District.

For Petitioner ... Mr.C.Prakasam

For R1 ... Mr.E.Manoharan

Additional Government Pleader.

For R2 and R4 ... Mr.S.V.Vijay Prasanth

Additional Government Pleader
(Forests)

O R D E R

(Order of the Court was made by S.MANIKUMAR, J)

Petitioner has sought for a Writ of Mandamus, directing the 1st respondent, to conduct an elaborate enquiry against the illegal felling of trees in Nilgiris District and to take necessary action against the officials, who committed

irregularities for helping the anti-social elements for cutting the trees in Nilgiris District.

2. In the supporting affidavit, petitioner has contended that in Allur Forest Area, Nilgiris District, Silver Cloud Estate persons have been cutting trees without obtaining any prior permission from the government and transporting the same, to various States, even though the government have not issued any permit or cutting order, some anti-social elements, with the help of forest officials, cut the trees and transport the same, hence, entire environment has been changed in that locality and rain fall has also reduced in the said locality. It will affect the entire area of Nilgiris District and Coimbatore District.

3. He further contended that petitioner came to understand that the respondents, have issued cutting orders, to cut 963 old age trees in the estate of Harrison Malayalam Limited vent worth estate, depositing of Rs.4,81,500/-, but actually, the market value of the said 963 old age trees, comes out to several crores and moreover elephants in that locality are taking fruits from the trees, as food. If the above said trees are cut the elephants would be affected.

4. In this regard, petitioner has sent a representation to the respondents on 27.05.2017 and 23.10.2017 respectively. After receipt of the said representations, the District Collector, Nilgiris District at Ooty/the 3rd respondent has sent a communication to the District Forest Officer, Gudalur, Nilgiris District/the 4th respondent and the Revenue Divisional Officer, Gudalur, directing them, to take necessary action and to prevent illegal felling of trees, but no action is taken. Even prior to that communication, on 23.06.2017, the 3rd respondent sent communication to the 4th respondent and Revenue Divisional Officer, but the 4th respondent has not taken any action against the anti-social elements and not taken any action, preventing illegal cutting of trees, in that area. For the abovesaid reasons, petitioner has filed the instant writ petition, for the prayer stated supra.

5. Per contra, the District Forest Officer, Gudalur, Nilgiris District, has filed a counter affidavit and the same reads thus:-

(i) As regards the averment of the writ petitioner about the tree cuttings in Silver Cloud Estate, District Forest Officer, The Nilgiris District, has submitted that it is fact that the Silver Cloud Estate indulged in illegal felling of shade trees in their plantation which stands notified under Tamil Nadu Preservation of Private Forests Act 1949. Action has been taken against the said estate for the said illegal tree cutting by booking offence under the Tamil Nadu Preservation of Private Forests Act 1949 in

O.R.No. 4/2007 and O.R.No.8/2017 of Gudalur Range. Necessary sanction for prosecution of the offenders was also obtained from the Chairman of the District Committee and the matter is in the process of being sent to the Judicial Magistrate Court, Gudalur, for trial.

(ii) With regard to the averment of the writ petitioner regarding the tree cutting in Harrisons Malayalam Limited Wentworth Estate, he further submitted that the Senior Manager, Harrisons Malayalam Ltd., Wentworth Estate, Pandalur had applied to the District Committee for selection felling of 1136 Ayini pala trees standing in their patta land, under the provisions of the Tamil Nadu Hill Area (Preservation of Trees) Act, 1955. The District Committee, subject to certain conditions, accorded permission for felling of 963 Ayini pala trees vide its orders in A4 48/2017, dated 13.11.2017. However, even before obtaining the permission, the applicant clandestinely sold the trees to a third party namely K.P. Zubair s/o K.P. Mohammed based on a Memorandum of Understanding. The said third party without the knowledge of officials, had indulged in indiscriminate felling of Ayini trees in Wentworth Estate unmindful of the conditions imposed by the District Committee. Moreover they had deliberately heaped in the field the cut trees in a topsy-turvy condition, with a view to disable the officials from inspecting the trees and unearthing the irregularity. There were a series of public complaints regarding the illicit felling. It was only at this point, the fact of commencement of felling without heeding to the conditions, came to the notice of the respondents. It was at this juncture, the present writ petition was filed by the writ petitioner herein in this Court inter alia touching the above subject. In this context, the documents based on which the application was processed for permission were critically scrutinized and it revealed certain manipulations on the part of the applicant apart from the violations in the cutting operation. The applicant was instructed to stop felling until further intimation in view of the violations and manipulation of records. The fact was also informed to the Chairman of the Committee vide District Forest Officer's Ref. No. 7778/2017 O dated 5.1.2018. Later, the District Committee cancelled the permission granted to the applicant. The position was that man-made trees can be allowed to be felled whereas trees of spontaneous growth cannot be allowed for felling. The writ petitioner had produced a

fabricated bill to prove that the trees were planted ones against the ground reality in order to mislead the officials and the Committee and obtained the permission. At the time of processing the applications, the bill submitted by the petitioner was considered as genuine, as the manipulation in the bill came to light only on critical scrutiny following the filing of PIL and receipt of complaints. Immediately on detection of the criminal fabrication of the bill, the Forest Range Officer, Cherambadi filed a police complaint against the applicant for his acts of fraudulence and deception, with Cherambadi Police Station. An FIR was registered in Crime No. 237/2018 under sections 420, 462 and 471 IPC and the prosecution is in progress. In the meantime, the applicant has approached this Court, seeking a direction for transporting the already felled spontaneously grown trees numbering 92 which contains illegally felled trees too. The Writ Petitioner company was not ignorant of the committee conditions that are to be followed during felling as they had on earlier occasions also obtained several permissions from Committee vide Orders in A4/05/2016 dt. 27.12.2016 A4/30/2017 dt. 01.02.2018, etc. and had completed felling. As such, they are well aware of the standard conditions in force. Yet, the Company indulged in forgery, fraudulence, illegal sale and destruction of natural trees which were grown spontaneously. Therefore the permission accorded for felling was withdrawn by the District Committee, as aforesaid. Challenging the said withdrawal of orders, the said Estate filed a Writ Petition in this Court in W.P.No. 29526 of 2018 wherein the above facts have been submitted to the Hon'ble Court in the counter affidavit filed by this respondent.

(iii) He further submitted that during critical scrutiny of documents, it came to light that one of the documents submitted to the Forest Range officer, Cherambadi by the writ petitioner to prove that the trees were planted ones and not of spontaneous growth was found forged constituting criminal offence. Since the forgery did not come to the knowledge of the officials at the time of processing of the application, the document was perceived as genuine one until a manipulation was detected following the present Writ Petition and complaints. It is pertinent to submit here that if the trees are of spontaneous growth, it cannot be permitted as per the directions

of the Hon'ble Supreme Court in W.P. (C) 202/1995. Therefore, the Forest Range Officer, Cherambadi lodged a complaint with the Cherambadi Police Station on 03.05.2018 and an FIR was registered in Crime No. 237/2018 under sections 420, 462 and 471 IPC and the prosecution is in progress. Sanction of prosecution has also been sought from Chairman of District Committee for the offence committed by the said Estate.

(iv) He has admitted the averment that cutting of huge number of old age trees will not only change environment in the locality but also will affect the entire area of the Nilgiris District. Therefore, necessary action has been initiated against the culprits involved in the offences. Further, the protection staff have been alerted to be more cautious against commission of any such offences by the offenders on the pain of disciplinary action against them in case of any lapses or connivance.

(v) As regards the averment of the writ petitioner regarding the alleged non action on the representations given by him, he has submitted all the representations received by the respondents, are considered seriously in its true spirit and, in the event of the contentions therein being found true, immediate necessary action is pursued in accordance with the governing rules and Act.

(vi) He further submitted that actions have already been pursued against the two estates finding a place in the present writ petition, for their illegal acts as narrated above and, as such, the relief sought by the writ petitioner already stands accomplished completely. Thus the writ petition has become infructuous."

6. In addition to the above, Mr.S.V.Vijay Prasanth, learned Additional Government Pleader (Forests) for respondents 2 to 4 submitted that, withdrawal of permission granted, has been challenged by the aggrieved, but there is no stay.

7. We have gone through the pleadings. Permission granted, has been withdrawn. On 03.05.2018, FIR has been registered in Crime No.237/2018 under Sections 420, 462 and 471 I.P.C., on the file of Cherambadi Police Station. Action has been taken. In view of the above, mandamus sought for, need not be granted.

8. Hence, writ petition is disposed of. No Costs. Consequently, the connected writ miscellaneous petitions, are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
Forest and Environment Department,
Fort St.George, Chennai - 600 009.

2.The Chief Conservator of Forest,
North Coimbatore, Coimbatore.

3.The District Collector,
The Nilgiris District at Ooty.

4.The District Forest Officer,
Gudalur, The Nilgiris District.

+1 cc to M/s.C.Prakasam,Advocate Sr.No. 69918

+1 cc to M/s.Richardson Wilson, Advocate Sr.No. 68870

+1 cc to The Special Government Pleader SR.No.69320

AKM/24.09.19/6P-8C /

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