

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.08.2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.34057 of 2017
and

W.M.P.Nos.37786 and 37787 of 2017

G.Gunasekaran ... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Forest Department, Fort St.George,
Chennai - 600 009.
- 2.The Chief Conservator of Forest,
Panagal Maaligai, Saidapet, Chennai - 600 015.
- 3.The District Collector,
Salem District, Salem-1.
- 4.The District Forest Officer,
Forest Department, Kaattukottai Village & Post,
Attur Taluk, Salem District.
- 5.The Range Officer,
Forest Department, Attur Circle, Attur-636 102.
Salem District.
- 6.The Secretary to Government,
Public Works Department,
Fort St.George, Chennai - 9.

... 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 cut down trees in the Kalvarayan Hills and take appropriate action against the officials, who responsible for cut down trees by illegal manner in the Kalvarayan Hills and affected the Kallaru Dam Scheme by disposing the petitioner's written representation dated 16.11.2017 along with remainder representation dated 28.11.2017.

For Petitioner : Mr.S.Ayyadurai
for Mr.R.Prabudoss

For R1, R2, R4 and R5: Mr.S.V.Vijay Prasanth
Additional Government Pleader (Forest)

For R3 and R6 : Mr.E.Manoharan
Additional Government Pleader.

ORDER

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

Claiming himself to be a public interest litigant, petitioner has filed the instant writ petition, for a Writ of Mandamus, directing the Principal Secretary to the Government, Forest Department, Chennai/the 1st respondent, to conduct an elaborate enquiry for illegal cut down the trees in Kalvarayan Hills and to take appropriate action against the officials, who responsible for cut down trees by illegal manner in the Kalvarayan Hills and affected the Kallaru Dam Scheme by disposing the petitioner's representation, dated 16.11.2017 along with remainder representation, dated 28.11.2017.

2. In the supporting affidavit, petitioner has contended that there is a forest, situated at Ramanaickenpalayam Village, Salem District. In the year 2003, Government of Tamil Nadu have spent more than Rs.20/-lakhs, for forest development, by cultivating trees and herbals and Government of Tamil Nadu also introduced the Kallar Dam Scheme in that locality, for preserving water and agricultural irrigation facility for more than 6000 acres of land in the surrounding villages and moreover drinking purpose for animals and also for public drinking water purpose, the said scheme has introduced.

3. He has further contended that to reach all the forest villages, from the Ramanaickenpalayam to Nagalur Kottivalaivu, Keezhavarai and Keelakkadu, British Government have prepared a FMB and laid down the roads, but now the respondents without developing the said FMB road, are laying a new road through the abovesaid Kallar Dam project by affecting the said Kallaru Dam Project, and for that purpose they cut down all old age thousands of trees for more than 7 Kms in the thickest forest and affected the atmosphere in the said locality. Environment also been disturbed and caused loss to the government, several crores, due to such illegal activities. Not only the public affected, animals living peacefully are also relocated in that forest area. In this connection, petitioner has made several written representations, to the respondents, requesting not to cut down the trees, not to disturb Kallaru Dam Scheme and to develop FMB road which was laid by British period, but ignoring

his representation as well as public representation, the respondents continue the illegal actions, cutting down the trees, without considering the entire atmosphere and ecology and disturb the animals peaceful living in that locality.

4. He has further contended that the respondents have to concentrate on widening FMB road. If they widen the old FMB road, then the cost of widening become lesser, but without touching the old FMB road, which is a narrow road, the respondents are disturbing Kallaru Dam scheme and moreover, villagers in Kerangadu, Keezhavarai, Adiyanur and Pattivalaivu, are having access to reach the nearby town viz., Attur which is situated 10 Kms and they get down from the hills, to reach the said Attur town, through the above said FMB old road, but the respondents have not taken any steps to widen FMB road and stop the work of felling down the old age trees. For the abovesaid reasons, petitioner has filed the instant writ petition, for the prayer, as stated supra.

5. Denying the abovesaid averments, the District Forest Officer, Attur Taluk, Salem District, has filed a counter affidavit, which reads thus:-

"(i) There is no such illegal tree felling in the Kalvarayan Hills, as alleged by the petitioner and that there was already a gravel path in existence for over a century which has been used by the tribal inhabitants in and around the Reserve Forest. This path was created under Section 16 of Madras Forest Act V of 1882 notification of the Nagalur RF, vide Notification No.64, dated 18.02.1905, whereby, right of way was given to the tribal inhabitants, to cut across the Reserve Forest and connect their habitations. In this regard, the said path has been in use since then by the tribal inhabitants.

(ii) There is no road as FMB road and there is only one gravel path that connects Ramanaickenpalayam and Nagalur. Thiru.Vellaiyan, Ex-chairman and Public of Periya Kalrayan Village, vide petition, dated 19.09.2017, made a representation to the District Forest Officer, requesting to permit them clear the bushes and repair the earthen road for easy movement which got eroded due to the recent rain and bushes have grown-up and obstructed the visibility. Pursuant to the same, vide Ref.No.8134/2005/D2, dated 22.09.2017, the District Forest Officer gave permission, to the villagers to repair the road from Ramanaickenpalayam to Nagalur with conditions so as

not to affect the Reserve Forest. Accordingly, only lops, tops and side branches were removed and no trees were felled.

(iii) Vide Reference No.1/386/2015, dated 18.03.2015, Principal Chief Conservator of Forests, has directed the District Collector, Salem, to release necessary funds to the DFO, Attur, for the development of the earthen road.

(iv) It is pertinent to bring the notice of this Court that, the petitioner had made a complaint to the CM's Cell regarding the alleged illegal felling of trees for construction of a new road. In this regard, an inspection was done by the District Forest Officer, Attur, on 03.11.2017 in accordance to the telephonic direction of the Chief Conservator of Forests and Conservator of Forests (i/c), Salem Circle, so as to ensure that there is no tree felling. Pursuant to the same, the Forest Range Officer, Attur, in his Ref.No.421,/2017, dated 05.12.2017, has reported that no new road is being constructed and there is no tree felling on the above earthen path during its maintenance. These facts were informed to the Hon'ble CM Cell and also to the petitioner vide, this office Ref.No.D2/6567/2017, dated 15.12.2017.

(v) Under Forest Development Agency Scheme, 27570 seedlings were planted in 50 Ha in Ten Acre Colony FDA and the survival of plants is 19809. Under Tamil Nadu Afforestation Project scheme, 102000 seedlings were planted in 250 Ha. in Ten Acre Colony TAP village and the survival of plants is 56781. An amount of Rs.20.00 lakhs has been incurred towards raising plantation. Steps are being taken to ensure proper tree growth / vegetation cover exist to preserve the forest.

(vi) No new road formation taken up from Ramanaickenpalayam to Nagalur Pattivalavu, Pethanaickenpalayam Taluk, Salem District and tree felling occurred during maintenance of the existing traditional path (Right of way) from Ramanaickenpalayam to Nagalur village and the accusations of the petitioner are baseless."

6. Heard the learned counsel for the parties and perused the materials available on record.

7. In view of the counter affidavit filed, prayer sought for in the instant writ petition, is answered and there is no need to issue any mandamus. Accordingly, writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petitions, are closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary to Government,
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Chennai - 600 009.
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6. The Secretary to Government,
Public Works Department,
Fort St. George, Chennai - 9.

+1 CC to The Govt. Pleader sr 72668
+1 CC to Mr. R. Prabudoss, Advocate sr 72289

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SSV(CO)
SP(26/09/2019)