



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.17632 of 2019
and
W.M.P (MD) Nos.14094 and 14095 of 2019

B.Suresh Kumar

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Sivagangai,
Sivagangai District.

2.The District Revenue Officer,
Collectorate Campus,
Sivagangai District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

4.The Tahsildar,
Taluk Office,
Weekly Market Road,
Sivagangai District.

5.The Divisional Forest Officer,
Social Forestry Division,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the respondents 1 to 5 to call for public auction to cut and remove the Karuvelam Trees in Periyakottai Tank to an extent of 122 Hectares at S.No.91, V.Pudhukulam Group of Villages, Sivagangai Taluk, Sivagangai District, within the time frame stipulated by this Court.



For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.A.K.Baskarapandian

Special Government Pleader for R.1 to R.3

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ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

The petitioner who claims to be a public spirited person, came forward to file this petition styled as a Public Interest Litigation, alleging among other things that licence was granted to cut Prosopis Juliflora trees at Periyakottai Tank of V.Pudhukulam, Sivagangai Taluk, Sivagangai District, to an extent of 122.14 Hectares subject to conditions and the third respondent, vide proceedings dated 15.02.2019, has cancelled the licence and challenging the same, the licensee, namely, Muthuraman, filed W.P. (MD)No.4267 of 2019. The learned Single Judge, vide order dated 15.04.2019, having found that the said order has been passed without affording any opportunity to the licensee, has set aside the said order and remanded the matter for conducting a fresh enquiry and pass appropriate orders in accordance with law.

2. It is further pointed out by the petitioner that the first respondent, vide proceedings dated 26.04.2019, in compliance of the above cited order, has issued a show cause notice on 26.04.2019. The licensee challenged the said show cause notice issued by the first respondent by filing W.P(MD)No.11142 of 2019 and vide order dated 29.04.2019, this Court directed the first respondent therein to consider the petitioner's (licensee's) defence before passing final orders and accordingly, disposed of the said writ petition.

3. Mr.T.Lajapathi Roy, learned Counsel for the petitioner has drawn the attention of this Court to the communication of the District Forest Officer, Sivagangai District, dated 02.05.2019, vide proceedings in Na.Ka.No.2032/2019/L, wherein the said official has noted that the Prosopis Juliflora trees grown on various lands were found to be cut and therefore, after causing inspection, sent a report for taking appropriate action. The licensee, namely, Muthuraman, has filed W.P(MD)No.12039 of 2019 before this Court praying for issuance of a writ of Mandamus forbearing the respondents therein which include the official respondents herein from in any way interfering with the lawful leasehold rights of the petitioner therein (licensee) as per the proceedings of the third respondent therein vide Mu.Mu.A1/3740/2015, dated 11.12.2018 with adequate compensation to the petitioner and it was allowed, vide order of this Court dated 16.05.2019 and it is relevant to extract hereunder paragraph 14 of the said order:



"14. In view of the above discussions, this Court is inclined to forbear the respondents herein, their men, Agents, or any one claiming under them from anyway interfering with the lawful licence/lease hold right of the petitioner as per the proceedings of the 3rd respondent in Mu.Mu.A1/3740/2015, dated 11.12.2018 for the period ending 12.06.2019. In view of the discussions regarding the allegations in the Show Cause Notice dated 26.04.2019 and the subsequent developments, the lease period is made absolute under the seal of this Court and no interference by the respondents at any pretext is permissible."

The licensee has submitted a representation dated 27.05.2019 to the third respondent praying for extension of time till 12.06.2019 to cut and remove the trees and since the said representation was not disposed of, had filed W.P(MD)No.13108 of 2019 and it was entertained and the learned Single Judge has appointed an Assessment Committee and the said Committee has submitted it's report and after hearing the submissions, orders were reserved.

4. The primordial submission made by the learned Counsel for the petitioner is that in the light of the communication of the District Forest Officer, Sivagangai District, dated 02.05.2019, coupled with the orders of the third respondent and the first respondent, immediate and appropriate action would have been taken at least to assess the loss and recover it from the licensee, namely, Muthuraman and nothing has been done by the official respondents.

5. It is also pointed out by the learned Counsel for the petitioner that though the order dated 16.05.2019 made in W.P(MD) No.12039 of 2019, is adverse to the proceedings of the official respondents, no steps have been taken by the official respondents to file an appeal and therefore, prays for appropriate orders as to the disposal of his representation dated 03.08.2019.

6. Per contra, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents would submit that depending upon the orders to be passed in W.P(MD)No.13108 of 2019, appropriate action will be taken by the official respondents.

7. This Court has carefully considered the rival submissions and perused the materials available on record.

8. In the light of the order dated 16.05.2019 passed in W.P (MD)No.12039 of 2019, which as on date reached finality, this Court cannot do much as to the grievance expressed by the petitioner.



However, taking into consideration the communication of the District Forest Officer, Sivagangai District, dated 02.05.2019, addressed to the first respondent (cited supra), this Court directs the first respondent to take into consideration the communication of the District Forest Officer, Sivagangai District, dated 02.05.2019, addressed to the first respondent as well as the representation dated 03.08.2019 submitted by the petitioner, after putting the licensee, namely, S.Muthuraman, son of Sundarrajan, Door No.6/1, Gokalehall 1st Cross Street, Sivagangai, Sivagangai District and consider the same and dispose of the representation of the petitioner, dated 03.08.2019, on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the said S.Muthuraman.

9. In the result, this writ petition is disposed of accordingly. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
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- 2.The District Revenue Officer,
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5.The Divisional Forest Officer,
Social Forestry Division,
Sivagangai District.

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+1 CC to M/s.SPL GP (SR-81508[F] dated 13/08/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-81619[F] dt.14/08/2019)

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and
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rsb

JMN(26.08.2019) 5P : 8C