



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2019**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD)No.25694 of 2019

and

W.M.P (MD)No.22262 of 2019

A.Manikandan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District @ Nagercoil.

2.The Sub-Collector,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Killiyoor Taluk,
Kanyakumari District.

4.The Revenue Inspector,
Midalam Revenue Firka,
Kanyakumari District.

5.The Village Officer,
Keezhmidalam "B" Village,
Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned memo passed by the third respondent herein against the petitioner in his proceedings vide A4/85/2019 dated 21.11.2019 and quash the same as illegal.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.M.Rajarajan,
Government Advocate

ORDER

Mr.M.Rajarajan, learned Government Advocate takes notice for the respondents.

By <https://hcservices.courts.gov.in/hcservices>, the writ petition is taken up for disposal at



the admission stage itself.

3. This Writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorari, challenging the order of the third respondent in proceedings No.A4/85/2019 dated 21.11.2019.

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4. The petitioner is the owner of five cents of property comprised in Re-survey No.326/27 of Keezhamidalam 'B' Village in Vilavancode Taluk, now in Killiyoor Taluk, having purchased the same on 07.10.1998. Adjacent to the said property, there is a poramboke odai and there are standing trees, which are country trees. When the petitioner wanted to sell his property, he wanted to measure the property and demarcate the same. Accordingly, the Taluk Sub-Inspector of Survey, Killiyoor, measured the property and stated that the trees planted by the petitioner were in the poramboke land, which were falling on the coconut siblings grown in the petitioner's land. Therefore, the petitioner made an attempt to cut the branches of the trees, which are planted in the poramboke land, however, without permission from the authorities concerned. Based on a complaint received by the fifth respondent from the villagers, an enquiry was conducted and before the Village Administrative Officer, the petitioner had admitted that he had cut the branches of the trees without realising that they were planted on the poramboke land. It is stated that he was under the bonafide impression that the trees were planted only within his land. Thereafter, the impugned order was passed by the Tahsildar, Killiyoor on 21.11.2019 imposing a fine of Rs.15,000/- as the value of the trees were assessed at Rs.5,000/- and double the amount was imposed as penalty, which totally amounting to Rs.15,000/-. The fine was imposed on 19.10.2019 vide proceedings in Na.Ka.No.A3/6229/3029 by the Sub-Collector, who is the second respondent herein and the order impugned in this writ petition is passed on 21.11.2019 by the Tahsildar.

5. Admittedly, when the Sub-Collector passed the order, there was no notice to the petitioner and without further enquiry, just based on the evidence given before the Village Administrative Officer, order has been passed. The said fact was also admitted by the learned Government Advocate appearing on the other side.

6. As there is violation of principles of natural justice, this writ petition is allowed and the impugned order dated 21.11.2019 passed by the third respondent, is hereby set aside. The matter is remitted back to the Sub-Collector, Padmanabhapuram, Kanyakumari District, for fresh enquiry. The Sub-Collector/second respondent is directed to issue notice to the petitioner indicating the date of enquiry, afford him an opportunity of hearing to produce documents if any and pass appropriate orders, within a period of four weeks from the date of



receipt of a copy of this order. No Costs. Consequently,
connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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// True Copy //

Sub Assistant Registrar (CS)

pm

To:

1.The District Collector,
Kanyakumari District @ Nagercoil.

2.The Sub-Collector,
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3.The Tahsildar,
Killiyoor Taluk,
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4.The Revenue Inspector,
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5.The Village Officer,
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Kanyakumari District.

+1 CC to Mr.B.BRIJESH KISHORE, Advocate (SR-103250[F] dated
04/12/2019)

+1 CC to Mr.SPL GP (SR-103266[F] dated 04/12/2019)

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