



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.11106 of 2020

Subbiah

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The District Forest Officer,
Sivagangai Forest Division,
Sivagangai.
- 3.The Forest Range Officer,
Thirupputhur Forest Range Office,
Thirupputhur,
Sivagangai District.
- 4.The Tahsildar,
Devakottai Taluk,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to remove the encroachments in "Forest" lands in S.No.212 of Kadambakudi Village and S.No.241 of K.Siruvanoor Village of Naranamangalam Group, Devakottai Taluk, Sivagangai District and consequently to restore the forest cover in the said lands entirely by raising indigenous trees by considering the petitioner's representation dated 03.08.2020 within a stipulated time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Balakarthick
For Respondents : Mr.B.Bagavathi
Government Advocate
* * * * *

**ORDER**

[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

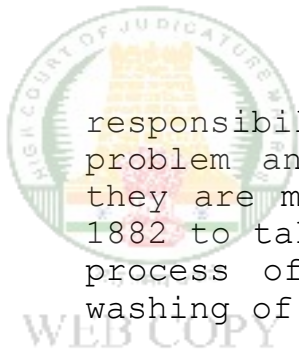
The petitioner is the resident of K.Siruvanoor Village, Kadambakkudi Panchayath, Devakottai Taluk, Sivagangai District and according to him, he is an agriculturist and became aware of the fact that the lands in S.No.212, admeasuring an extent of 64.23.50 Hectare, and S.No.241, admeasuring an extent of 25.75.00 Hectare, of Naranamangalam Group are classified as "Kadambakudi Forest" and "K.Siruvanoor Forest Lands" respectively. It is the specific case of the petitioner that several persons encroached upon the said lands and started irrigating their lands illegally from Kadambakudi and K.Siruvanoor Kanmoi.

2.It is also pointed out by the petitioner that in respect of S.No.1/1 of Kurunthur Village, Naranamangalam Group, classified as 'Forest', 90 persons, who have raised coconut trees, have approached this Court by filing W.P.(MD) Nos.29 to 32, 326 to 329 and 501 to 508 of 2013, for issuance of patta and this Court vide order dated 03.04.2013, directed to consider and dispose of the representation. The first respondent, in compliance of the order of this Court, considered the said representation and has rejected the same vide proceedings in Na.Ka.P2/33839/2012 dated 04.06.2014, observing that the lands are forest lands. It is the further submission of the learned counsel for the petitioner that one Karuppiyah was issued with eviction order vide proceedings in Na.Ka.A1-4101-2018 dated 19.12.2018, and he made a challenge to the same by filing W.P.(MD) No.6971 of 2019, in respect of the land in his possession to an extent of 1.89.0 acres in S.No.241 of K.Suranoor Village, Naranamangalam Group and the Writ Petition came to be dismissed on 16.12.2019.

3.The learned counsel for the petitioner by drawing the attention of this Court to the averments made in the affidavit filed in support of the petition and typed set of documents would submit that despite a conclusion has been reached that the land in S.Nos.212 and 241 are 'Forest' no effective steps have been taken to remove the encroachment. The representation submitted in this regard on 03.08.2020 also failed to invoke any kind of response and the reason for not taking any effective steps may be on account of law and order and public order problem and hence, prays for appropriate orders.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The respondents did not dispute the fact that the lands in S.Nos.212 and 241 of Naranamangalam Group are classified as 'Forest Land'. In the considered opinion of this Court, the respondents, especially the respondents 2 and 3, cannot abdicate their duties and



responsibilities under the pretext of law and order and public order problem and once encroachment upon public land has been noticed, they are mandated under Section 68-A of the Tamil Nadu Forest Act, 1882 to take immediate steps to remove the same by following the due process of law and for the reasons best known to them they are washing of their hands.

6.It is relevant to extract Section 68-A of the Tamil Nadu Forest Act, 1882:

"68-A. Liability of person unauthorisedly occupying any land in reserved forest etc., to summary eviction:- Any person unauthorisedly occupying any land in reserved forest or any land at the disposal of Government may be summarily evicted by an officer of Forest Department not below the rank of Forest Ranger or an Officer of the Revenue department not below the rank of Tahsildar having jurisdiction over area in which such land is situated, in such manner, as may be prescribed and any crop or other product raised on such land, shall be liable to forfeiture any building or other construction erected or anything deposited thereon shall also be liable to forfeiture. Forfeiture under this section, shall be adjudged by the officer referred to above and any property so forfeited, shall be disposed of in such manner as may be prescribed.

Provided that no eviction or adjudication under this section adversely affecting a person shall be made or adjudged, unless-

(a) such person has been given a notice in such manner as may be prescribed; and

(b) the representation, if any received in pursuance of such notice has been duly considered by such officer concerned."

7.This Court, taking into consideration of the above facts and circumstances, directs the respondents 2 and 3 to take immediate, necessary and proper steps to remove encroachments in accordance with law, especially, in the light of Section 68-A of the Tamil Nadu Forest Act, 1882 and in this regard the District Administration as well as the Superintendent of Police, Sivagangai District are also directed to extend necessary help to respondents 2 and 3 to cause removal of encroachment by following due process of law. The respondents 2 and 3 are further directed to complete the said exercise as expeditiously as possible and not later than 12 (twelve) weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner and any other persons concerned.



8.The Writ Petition stands disposed of accordingly. However, in the circumstances of the case, there shall be no order as to the costs.

Sd/-

Assistant Registrar (C.O)

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Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Forest Officer,
Sivagangai Forest Division,
Sivagangai.
3. The Forest Range Officer,
Thirupputhur Forest Range Office,
Thirupputhur, Sivagangai District.
4. The Tahsildar,
Devakottai Taluk,
Sivagangai District.

Copy to:

The Superintendent of Police,
Sivagangai District.

+1 CC to the SPL GP (SR-17133[F] dated 16/09/2020)

W.P. (MD) No.11106 of 2020
15.09.2020

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CS(23.09.2020) 4P 7C