



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.18259 of 2020

(Through the Video Conferencing)

WEB COPY

S.Ashok Kumar

... Petitioner

Vs

1. The Chief Conservator of Forests,
Tirunelveli Circle, NGO Colony,
Tirunelveli-627 007.

2. The District Forest Officer & Wildlife Warden,
Tirunelveli Division, NGO Colony,
North Main Road, Tirunelveli-627 009.

3. The Forest Ranger,
Courtallam Range,
At Shengottai,
Tenakasi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 3 to grant permission to the petitioner and his employees to enter into petitioner's property in S.No.692/1, situated in Periya Ramakkal Theri (Tahsildar Thottam), Puliয়ারai Village, Shengottai Taluk, Tenkasi District, located in Puliয়ারai Reserve Forest / Nellai Wildlife Sanctuary in accordance with law.

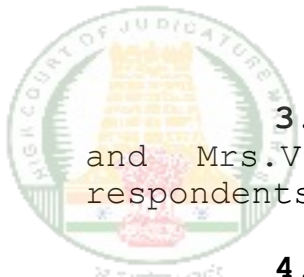
For Petitioner : Mr.R.J.Karthik

For Respondents : Mrs.V.P.M.Vaishnavi
Government Advocate

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondents 1 to 3 to grant permission to the petitioner and his employees to enter into the petitioner's property in S.No.692/1, situated in Periya Ramakkal Theri (Tahsildar Thottam), Puliয়ারai Village, Shengottai Taluk, Tenkasi District, located in Puliয়ারai Reserve Forest / Nellai Wildlife Sanctuary, in accordance with law.

2. Mrs.V.P.M.Vaishnavi, learned Government Advocate accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



3. Heard Mr.R.J.Karthik, learned counsel for the petitioner and Mrs.V.P.M.Vaishnavi, learned Government Advocate for the respondents.

4. The case of the petitioner is that he is the owner of the property comprised in S.No.692/1, measuring to an extent of 40 Acres, situated in Periya Ramakkal Theri (Tahsildar Thottam), Puliyarai Village, Shengottai Taluk, Tenkasi District. It is his case that his property is situated in Puliyarai Reserve Forest / Nellai Wildlife Sanctuary. According to him, he is doing agricultural activities in his property by engaging physical labour through the local people.

5. It is the case of the petitioner that the third respondent on 20.10.2020 issued a notice under Sections 2, 27,28, 33, 50, 52, 57 of the Wildlife (Protection) Act, 1972, Sections 2, 21(d) (c), 23, 53 of Tamil Nadu Forest Act, 1882 and Sections 175, 179, 180, 187 and 188 of I.P.C., informing the petitioner to get permission from the first respondent to enter into the petitioner's property since the surrounding property is declared as Nellai Wildlife Sanctuary by virtue of G.O.Ms.No.12, dated 04.02.2015. The petitioner has given a representation dated 17.02.2020 requesting the second respondent to grant permission to enter into his property comprised in S.No.692/1, measuring to an extent of 40 Acres, situated in Periya Ramakkal Theri (Tahsildar Thottam), Puliyarai Village, Shengottai Taluk, Tenkasi District.

6. It is the case of the petitioner that the second respondent by proceedings dated 17.02.2020 has forwarded the representation to the third respondent and called for a detailed report. But, according to the petitioner, till date, no action has been taken by the third respondent to submit a report as requested by the second respondent. In such circumstances, this Writ Petition has been filed.

7. The learned counsel for the petitioner would submit that subsequent to the filing of this Writ Petition, the petitioner has received a communication dated 04.12.2020 from the third respondent, calling upon the petitioner to produce all documents pertaining to his property.

8. Mrs.V.P.M.Vaishnavi, learned Government Advocate for the respondents would submit that the appropriate authority to consider the petitioner's representation is the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai and therefore, without impleading him as a party / respondent, the representation of the petitioner cannot be considered by the remaining respondents.

9. The learned counsel for the petitioner seeks permission of this Court to give a fresh representation to the respondents



including the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai, in order to get permission from him to enter into the petitioner's property through the Puliyarai Reserve Forest / Nellai Wildlife Sanctuary.

10. The learned Government Advocate for the respondents, on instructions, would submit that, on receipt of the fresh representation, the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai, shall consider the same and pass final orders on merits and in accordance with law.

11. After hearing the rival submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents and in view of the fact that no prejudice will be caused to the respondents as well as the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai, if the representation of the petitioner seeking permission to enter into the petitioner's property through the Puliyarai Reserve Forest / Nellai Wildlife Sanctuary, is considered by the respondents on merits and in accordance with law.

12. After recording the submissions of the respective counsels and after examining the contents of the affidavit filed in support of this Writ Petition, this Court directs the petitioner to give a fresh representation to the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai, as well as the respondents herein in this Writ Petition seeking permission for entering into his land comprised in S.No.692/1, situated in Periya Ramakkal Theri (Tahsildar Thottam), Puliyarai Village, Shengottai Taluk, Tenkasi District, which is surrounded by the Puliyarai Reserve Forest / Nellai Wildlife Sanctuary, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the Chief Wildlife Warden, Tamil Nadu Forest Department, Chennai as well as the respondents herein shall pass final orders on merits and in accordance with law after giving adequate opportunity to the petitioner to put forward his contentions and to place all documents including granting him the right of personal hearing within a period of three months from the date of receipt of a copy of this order.

13. With the aforesaid direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (A.E)

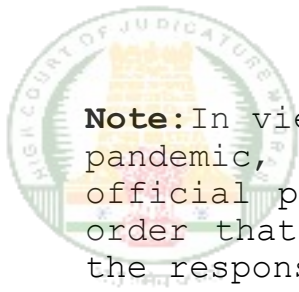
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Sub Assistant Registrar(CS)

tsg

<https://hcservices.ecourts.gov.in/hcservices/>



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.

WEB COPY

To

1. The Chief Conservator of Forests,
Tirunelveli Circle, NGO Colony,
Tirunelveli-627 007.
2. The District Forest Officer & Wildlife Warden,
Tirunelveli Division, NGO Colony,
North Main Road, Tirunelveli-627 009.
3. The Forest Ranger,
Courtallam Range,
At Shengottai,
Tenakasi District.
4. The Chief Wildlife Warden,
(PCCF), Tamil Nadu Forest Department,
1, Jeenis Road, Panagal Building,
Saidapat, Chennai-600 015.

W.P. (MD) No.18259 of 2020
11.12.2020

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