

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on	18.12.2020
Judgment Pronounced on	19.01.2021

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.4992 of 2010

M.Duraikannan

... Petitioner

Vs

- 1.Government of Tamil Nadu
Rep. by its Secretary,
Schedule Caste and Schedule Tribe
Welfare Department,
Fort St. George, Chennai -9.
- 2.The Director,
National Commissioner for Schedule Caste,
Government of India,
State Office Floor-2, Block-5,
Shastri Bhavan, Chennai-6.
- 3.The District Collector,
Thiruvannamalai District,
Office of the Collectorate,
Thiruvannamalai.
- 4.The District Revenue Officer,
Thiruvannamalai District,
Office of the Collectorate,
Thiruvannamalai.
- 5.The Superintendent of Police,
Thiruvannamalai District,
Office of the Superintendent of Police,
Thiruvannamalai.

6.Palani

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the Respondents 1,3 and 5 to pay the compensation of Rs.3,24,54,440/- as per the assessment made by the Department of Horticulture in their letter No.A/846/07 dated 19.05.2007 for Rs.1,01,02,600/-, Department of Forest in Na.Ka.No.48 of 2007

dated 15.06.2007 for Rs.1,24,69,590/-, and Department of Forest in Na.Ka.No.48 of 2007 dated 22.08.2007 for Rs.98,82,250/- respectively with interest to the Petitioner at the earliest .

For Petitioner : Mr.M.L.Ramesh

For Respondents : Mr.G.K.Muthukumar

Spl. G.P. for R1, 3 to 5

Mr.R.Vasudevan for R2

O R D E R

The subject matter of this writ petition is a compensation claim of Rs.3,24,54,440/- on the basis of assessments made by the Department of Horticulture and the Department of Forests pursuant to a complaint that an atrocity was committed in terms of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the SC/ST Prevention of Atrocities Act).

2. The Petitioner belongs to the Hindu Paraiya community, which is a Scheduled Caste. He is an agriculturist who claims that he owns about 8.5 acres of land in Vembakkam Village, Cheyyar Taluk, Tiruvannamalai District. He states that he had invested all his labour and money in developing the 8.5 acres as a farm by growing trees and plants, including decorative crotons therein. The 6th Respondent owns the adjoining lands and it is stated that there is enmity between the Petitioner and the 6th Respondent. According to the Petitioner, the 6th Respondent demanded that the Petitioner should sell his land to the 6th Respondent and move away from the village. It is alleged by the Petitioner that on 14.04.2007, at about 4.30 p.m., the 6th Respondent lit fire to a cycle tyre and threw it into the Petitioner's property. The fire spread across the farm and destroyed several trees and plants. After dowsing the fire, at about 9.30 p.m, the Petitioner lodged a police complaint at the Brahmadesam Police Station. This resulted in a prosecution before the Principal District and Sessions Judge, Thiruvannamalai, in S.C.No.62 of 2008. By judgment dated 23.01.2019, which was pronounced long after the writ petition was filed, the 6th Respondent was acquitted of the charges under Section 435 of the Indian Penal Code, 1860 (the IPC) read with Section 3(2)(iii) of SC/ST Prevention of Atrocities Act.

3. Meanwhile, by letter dated 19.05.2007, the Assistant Director of the Horticulture Department, Thiruvannamalai, informed the Superintendent of Police, Thiruvannamalai District, that the Horticultural Officer, Cheyyar, inspected the farm of the Petitioner on 14.05.2007 in order to make an assessment of compensation for damage to the plants. On the basis of the said inspection, he submitted a report wherein he estimated the compensation for damage to the plants in a sum of Rs.1,01,02,600/-. With regard to the trees on the said property, two assessments were made. The first assessment was made pursuant to an inspection on 15.06.2007 by the Forest Range Officer, Inspection Wing. Pursuant to such inspection, as regards the damage to teak, rose wood and red sandalwood trees, by communication dated 15.06.2007, the Forest Range Officer informed the District Forest Officer, Thiruvannamalai, that the compensation was assessed in an aggregate sum of Rs.1,24,69,590/-. The 2nd communication dated 22.08.2007 was sent by the same Forest Range Officer to the District Forest Officer estimating the loss on account of the destruction of coconut, Jamun and Neem trees in an aggregate sum of Rs.98,82,250/-. After issuing several representations claiming compensation, it is stated that the Deputy Superintendent of Police only offered a sum of Rs.6,250/- as compensation by communication dated 11.02.2008. The present writ petition was filed in the above facts and circumstances.

4. I heard Mr.M.L.Ramesh, the learned counsel for the Petitioner; Mr.G.K.Muthukumar, the learned Special Government Pleader for the Respondents 1, 3 to 5; and Mr.R.Vasudevan, the learned counsel for the second Respondent.

5. The first contention of Mr.M.L.Ramesh was that the SC/ST Prevention of Atrocities Act provides for assessment of the damage suffered either to the person or property of a person belonging to a SC/ST community and for the payment of relief on the basis of such assessment by the Government. In support of this contention, Mr.M.L.Ramesh referred to Section 3 of the SC/ST Prevention of Atrocities Act which provides for the punishment of a person who is not a member of a SC/ST with regard to the offences specified therein. Section 3(1)(v) provides for punishment in case a non-SC/ST person "wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water." Mr.Ramesh contends that by setting fire to the Petitioner's farm, the 6th Respondent interfered with the enjoyment of the Petitioner's right over his land. As such, an offence punishable under Section 3(1)(v) was committed by the 6th Respondent.

Consequently, as per Rule 12 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 (the SC/ST Prevention of Atrocities Rules), measures are required to be taken by the District Administration. For this purpose, the District Magistrate and the Superintendent of Police were required to visit the place where the atrocity was committed to assess the loss of life and damage to property and prepare a list of victims who are entitled to relief. The District Magistrate or Sub-Divisional Magistrate and or any other Executive Magistrate were required to make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity. Such relief is required to be extended as per the scale specified in Annexure-1 to the SC/ST Prevention of Atrocities Rules. By drawing reference to Annexure-1 to the said Rules, Mr. Ramesh contended that it is provided therein that at least Rs.25,000/- or more should be given by way of relief depending upon the nature and gravity of the offence.

6. In the present case, officials of the Horticulture Department and the Forest Department undertook the exercise of assessing the damage to the trees and plants of the Petitioner. Such assessment was on the basis of inspections carried out shortly after the incident. For example, the Horticultural Department Officer visited the Petitioner's farm and inspected the damage on 14.05.2007, and the assessment was made on that basis. His report was accepted by the Assistant Director of Horticulture, who assessed the compensation in a sum of Rs.1,01,02,600/-. Likewise, the Forest Range Officer assessed the damage to the trees by undertaking an inspection on 15.06.2007 and, on that basis, the compensation payable for the damage to teak, rosewood and red sandalwood trees was determined in a sum of Rs.1,24,69,590/-. Because the damage to other trees such as coconut, neem and jamun trees had not been included in the earlier determination, by communication dated 22.08.2007, the compensation for damage to the above mentioned three varieties of trees was assessed in an aggregate sum of Rs.98,82,250/-. This determination was conveyed under communication dated 22.08.2007 from the Forest Range Officer to the District Forest Officer, Thiruvannamalai. Upon receipt thereof, neither the Deputy Superintendent of Police nor the District Forest Officer Thiruvannamalai raised any objections as regards the assessment made by the Assistant Director, Horticulture Department or the Forest Range Officer. Mr. Ramesh contended that once the Horticultural Department and the Forest Department determined the amount payable in respect of the damage to the plants and trees, the Government was bound to make such payment as per Rule 12 read with the Annexure to the SC/ST Prevention of Atrocities Rules. Accordingly, he contended that the present writ petition is sustainable inasmuch as it is based

on the reports submitted by the officials of the Government.

7. In response, Mr.G.K.Muthukumar submitted that the SC/ST Prevention of Atrocities Act is not applicable in the facts and circumstances of this case. By way of substantiation, he referred to the judgment dated 23.01.2019 in S.C.No.62 of 2008. By the said judgment, the 6th Respondent was exonerated of all charges under Section 435 of the IPC read with Section 3(2) (iii) of the SC/ST Prevention of Atrocities Act. Once it is held that the accused did not commit an atrocity under the SC/ST Prevention of Atrocities Act, Mr.Muthukumar submitted that no relief is payable as per Rule 12 of the SC/ST Prevention of Atrocities Rules.

8. Without prejudice to the preliminary objection as regards the maintainability of the writ petition, his second contention was that Rule 12 provides for relief measures and not compensation, whereas, the prayer in the writ petition is for the payment of compensation. Therefore, he submitted that the writ petition is not sustainable. By referring to paragraphs 4,6 and 9 of the counter affidavit of the District Collector, Thiruvannamalai, he contended that assessments were made by the Assistant Director of the Horticulture Department and the Forest Range Officer without following the correct procedure and, consequently, they overestimated the damage. He also referred to the counter affidavit of the Deputy Superintendent of Police, Cheyyar, and, in particular, paragraph 11 thereof, wherein it is reiterated that the assessments made by the Assistant Director of the Horticulture Department and the Forest Range Officer were made by incompetent persons and that they did not follow the correct formula and procedure for assessing the damage.

9. By contrast, he pointed out that in paragraph 21 of the said counter, the quantum of relief had been correctly estimated at Rs.1,50,000/-. In order to substantiate the above contention, the learned Special Government Pleader referred to and relied upon the report dated 22.07.2010 submitted by the Deputy Director of the Horticulture Department, Thiruvannamalai to the District Collector, Thiruvannamalai, wherein the damage to plants was assessed in a sum of Rs.80,121/-/. Likewise, as regards trees, he referred to the communication dated 22.07.2010 from the District Forest Officer to the District Collector, Thiruvannamalai, wherein the damage to trees was estimated in a sum of Rs.13.923/-. Although the aforesaid estimates aggregate to a sum of Rs.94,000/-, Mr.Muthukumar submitted that the Government is willing to pay a sum of Rs.1,50,000/- as compensation as stated in the counter affidavit of the Collector

at paragraph 9 and in paragraph 21 of the counter affidavit of the Superintendent of Police, Thiruvannamalai. In support of the aforesaid estimates, he also relied upon the communication dated 22.07.2010 from the Deputy Director of Horticulture to the District Collector and District Magistrate, Thiruvannamalai as regards the cost of production of amla, sapota and lemon trees in an one acre farm for a two year period. By correlating the details provided therein with the estimates made by the Deputy Director of Horticulture, he submitted that the current estimates of the Government are scientific and rational and, therefore, the exorbitant claims made by the Petitioner are liable to be rejected.

10. By way of rejoinder, Mr.Ramesh submitted that a statutory duty is imposed on the District Magistrate and the Superintendent of Police to immediately visit the place where the atrocity was committed so as to assess the loss or damage to life and property. Moreover, on the basis of such assessment, the District Magistrate or Sub-Divisional Magistrate or Executive Magistrate are required to make arrangements for the payment of relief to the victims. In the present case, Mr.Ramesh submitted that the said statutory obligations were clearly not complied with by the official Respondents. Consequently, the present writ petition is both maintainable and sustainable. He further submitted that the writ petition was filed on the basis of reports submitted by the officials of the Horticulture Department and Forest Department after inspecting the Petitioner's farm shortly after the same was set on fire. On the contrary, the reports that are relied upon by the official Respondents were prepared after the writ petition was filed. In order to substantiate this contention, he referred to the communication dated 22.07.2010 with regard to the assessment of damage to the trees and pointed out that the writ petition is referred to in the subject entry of the communication and the said report is in response to a letter dated 21.07.2010 from the District Collector, Thiruvannamalai. In other words. Mr.Ramesh's contention was that these reports were prepared in order to defend the writ petition and are not based on an inspection of the Petitioner's farm within a reasonable time after the fire accident. Consequently, he submits that the new reports should not be taken into consideration. On account of the fact that the Petitioner has filed the writ petition on the basis of reports submitted by Government authorities, he contended that it is not necessary for the Petitioner to approach a civil court in order to establish his claim for relief. He also pointed out that the report dated 22.07.2010 covers only teak trees and not other trees.

11. I considered the submissions of the learned counsel for the respective parties and examined the materials on record.

12. At the outset, the preliminary objection of Mr.Muthukumar should be examined. He contended that the Petitioner is not entitled to relief because the 6th Respondent was acquitted in S.C.No.62 of 2008 by judgment dated 23.01.2019 of the Principal District and Sessions Judge, Tiruvannamalai. The acquittal of the 6th Respondent is an admitted fact; the records do not disclose the filing of an appeal and the reversal of the verdict of the Sessions Court; therefore, the implications thereof on the claim for relief should be considered. Section 3 of the SC/ST Prevention of Atrocities Act enumerates the atrocities against members of any of the SC and ST communities and prescribes the punishment in respect thereof. Upon perusal, it is evident that it does not deal with the grant of relief. Prior to the amendment, the only provision in the Act that dealt with relief, albeit indirectly, is Section 21 which imposes a duty on the State Government to take necessary measures for the effective implementation of the Act, including "the provision for the economic and social rehabilitation of the victims of the atrocities." The rule making power is contained in Section 23 and, in terms thereof, rules may be framed for carrying out the purposes of the Act. The SC/ST Prevention of Atrocities Rules were framed pursuant to the said rule making power. Rule 6 thereof mandates spot inspection by the jurisdictional District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police immediately upon receipt of information from any person or on the basis of direct knowledge of an atrocity against a member of the SC/ST community. Based on such spot inspection, these officials are required to draw up a list of victims; prepare a detailed report on the extent of atrocity, loss and damage to the property of the victims; and provide immediate relief to the victims. Rule 12 deals with measures to be taken by the district administration and the focus thereof is on relief and rehabilitation of victims. Thus, it also provides for an assessment of loss of life and damage to property by the District Magistrate and the Superintendent of Police, and sub-rule (4) thereof provides for the grant of immediate relief to the victims and their families as per norms prescribed in Annexure I to the Rules.

13. In order to better appreciate the statutory matrix, the relevant provisions are set out below. The relevant clauses of Section 3 of the Act, as regards this case, are clause(v) of sub-section (1) of Section 3 and clause (iii) of sub-section (2) of Section 3 and the said clauses are as under:

"3. Punishment for offences of atrocities.
--(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe.--

(v) Wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water (emphasis added);

....
shall be punishable with imprisonment for a term which shall not be less than six months to which may extended five years and with fine.'"

(2)Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe.--

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine (emphasis added);

Rule 12 is as under:

"12. Measures to be taken by the District Administration-(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victims, their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First Information Report is registered in the book of the concerned police station and effective measure for apprehending the accused are taken.

(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigating officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the Schedule annexed to these rules (Annexure I read with Annexure II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his/her dependent under sub-rule (4) in respect of death, or injury to, or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate of Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance."

Rule 12 is required to be read along with Annexure -1. Annexure-1 contains the norms for determining the quantum of relief although the column (3) heading is "minimum amount of relief". While the 6th Respondent was prosecuted only under Section 435 of IPC and Section 3(2)(iii) of the SC/ST Prevention of Atrocities Act, for purposes of relief, the relevant offences in this case are offences under Section 3(1)(v) and Section 3(2)(iii). The relevant entry of Annexure -1, as regards an offence under Section 3(1)(v), is as under:

5. Relating to land, premises and water [Section 3(1)(v)]	At least Rs.25,000 or more depending upon the nature and gravity of the offence. The land/premises/water supply shall be restored where necessary at Government cost. Full payment to be made when charge-sheet is sent to the Court.
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As regards an offence under Section 3(2)(iii), there does not appear to be an entry stipulating the norm. Nonetheless, as regards destruction by fire of a building, which is a related offence under Section 3(2)(iv), construction of the burnt or destroyed house at Government cost is provided for.

14. In light of the above statutory matrix, the question to be considered is whether the conviction of a person accused of an atrocity under the SC/ST Prevention of Atrocities Act is a sine qua non for the grant of relief. In my view, it is not for the following reasons: (i) Section 3 enumerates the atrocities and prescribes the punishment of a person convicted of an atrocity, whereas it does not deal with the grant of relief; (ii) relief is granted by the Government and not by the perpetrator of the atrocity; (iii) Rules 6 and 12 stipulate that immediate relief should be provided, and certainly do not require that the conviction of the accused should precede or be a condition for the grant of relief; (iv) the object and purpose of the enactment is not only to punish the perpetrators of atrocities against members of the SC/ST communities but also to provide relief and rehabilitation to the latter; and (v) reading such a condition precedent or subsequent for the grant of relief into Rules 6 and 12 is not mandated by text or context and would work against the object and purpose of the enactment especially in view of the standard of proof in criminal proceedings. In this context, reference may be made to the judgment of the Hon'ble Supreme Court in *Swaran Singh v. State* (2008) 8 SCC 435, wherein an interpretation that is in consonance with the object and purpose was adopted while interpreting Section 3(1)(x) of the Act. For purposes of grant of relief under Rules 6 and 12, it is sufficient if there is prima facie evidence that an atrocity was committed. In order to satisfy this requirement, the only conditions precedent would be prima facie evidence that a member of the SC/ST community was subjected to any of the acts specified in Section 3 at the instance of a person who is not a member of the SC/ST community. The entitlement to relief would no longer subsist if there is sufficient evidence later that the act complained of was committed by a member of the SC/ST community because the commission of the act by a non-member of the SC/ST community against a member thereof is a sine qua non to apply the law. When this test is applied to the present case, the documents on record clearly disclose that the Petitioner's farm was damaged by a fire and notwithstanding the acquittal of the 6th Respondent, there is nothing to indicate that the fire was caused by a person belonging to the SC/ST community. For the sake of clarity, it is emphasised that the principles/tests set out above would only apply to the grant of relief and not to criminal prosecution under this statute. In view of the aforesaid, the preliminary objection of Mr. Muthukumar as regards maintainability of the claim for relief is rejected.

15. The next question to be examined is whether the statutory duty imposed on the official Respondents was fulfilled by them. Upon perusal of Rules 6 and 12, it is evident that the officials named therein are obligated to inspect the place or

area where the atrocity was committed in order to assess the loss of life and damage to the property, and to draw-up a list of victims, their family members and dependents. Indeed, Rule 12 imposes this obligation expressly on the District Magistrate and the Superintendent of Police. Sub-Rule (4) mandates that the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall provide immediate relief in cash or in kind or both to the victims of atrocity. Sub Rule (5) specifies that the relief provided to the victim of the atrocity under Sub rule (4) shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

16. The aforesaid provisions were amended by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, with effect from 26.01.2016, and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (Amendment) Rules, 2016 with effect from 14.04.2016. However, the said amendments are prospective and therefore would not apply to an incident that took place on 14.04.2007. Accordingly, the pre-amended Act, Rules and Annexure-1 should be applied for the purposes of this case. Upon closely analysing Rule 12, there is no doubt that a statutory obligation is imposed on the District Magistrate and the Superintendent of Police to visit the place where the atrocity was committed. From the documents on record, it is clear that this obligation was not fulfilled in the present case. The documents reflect that the Forest Range Officer and the Horticulture Department Officer visited the farm but neither the District Magistrate nor the Superintendent of Police appear to have visited the Petitioner's farm. Likewise, after such inspection, the District Magistrate or the Sub-Divisional Magistrate or any Executive Magistrate are required to make arrangements for providing immediate relief to the victims. The said obligation was also not fulfilled in the present case.

17. In light of the failure of the authorities concerned to fulfill their statutory obligation, the further question that arises is whether the Petitioner is entitled to the relief prayed for in this writ petition. The claim for an aggregate sum of Rs.3,24,54,440/- is made on the basis of three reports from the Horticulture Department and Forest Department. Therefore, I should turn to the said reports in order to decide whether the said reports may be relied upon. Upon perusal of the report dated 19.05.2007 from the Assistant Director, Horticulture Department to the Deputy Superintendent of Police, Thiruvannamalai, I find that the said report does not disclose the basis on which the compensation amount was arrived at. By way of illustration, the report mentions that 260 numbers of sapota trees were damaged and assesses the compensation in

respect thereof as a sum of Rs.72,80,000/-. There is absolutely no indication as to the basis for arriving at a sum of Rs.72,80,000/- as the compensation for the damage to 260 numbers of sapota trees. Indeed, the said report does not even stipulate the basis on which it was concluded that there were 260 sapota trees. The same flaws are discernible as regards the other plants that are dealt with in the said report. Likewise, the report dated 15.06.2007 from the Forest Range Officer to the District Forest Officer assesses the damage to three varieties of trees in an aggregate sum of Rs.1,24,69,590/-. Once again, this report does not indicate the basis for arriving at the compensation amount. By way of illustration, it specifies that 7000 teak trees were damaged. The compensation amount of Rs.70 lakhs has been arrived at the rate of Rs.1000/- per tree. However, there is no indication as to why Rs.1000/- was adopted as the amount of compensation per tree. Even more importantly, the basis for concluding that there were 7000 teak trees is not specified. The third report follows the same pattern. For instance, it specifies that 250 coconut trees were damaged and that the compensation in respect thereof is a sum of Rs.98,64,750/-. Once again, neither the basis for arriving at the number of trees nor the compensation per tree is discernible. Thus, in my view, none of the three reports inspire confidence. Consequently, I am not inclined to accept the said reports at face value and adjudicate this petition on the basis of the said reports.

18. The reports that were relied upon by the learned Special Government Pleader should also be examined. As contended by the learned counsel for the Petitioner, it is evident from the reports that they were prepared after the writ petition was filed. The report of the Joint Director, Horticulture Department, Thiruvannamalai dated 22.07.2010 references the letter dated 21.07.2010 of the District Collector, Thiruvannamalai. It also references the present writ petition in the subject heading of the letter. Likewise, the letter dated 22.07.2010 from the District Forest Officer to the District Collector also refers to a letter dated 21.07.2010 from the District Collector. Upon perusal of these documents, two things are noticeable. First, that the documents were prepared after the writ petition was filed. Secondly, that the authorities concerned have submitted their responses to the District Collector on the very next day. Once again, this does not inspire any confidence as to the credibility of the documents. Hence, the quantum of relief cannot be decided conclusively on the basis of these reports. Nevertheless, I find that the third Respondent and the 5th Respondent have stated that they are ready and willing to pay a sum of Rs.1,50,000/- to the Petitioner and this could be the basis for the payment of ad hoc relief.

19. Upon closely examining and analysing the SC/ST Prevention of Atrocities Act and the Rules thereunder, it is evident that the payment of relief is not intended to be ad hoc or ex gratia but is required to be based upon an inspection of the place where the atrocity was committed so as to assess the damage to property. Consequently, Rule 12(1) stipulates that an assessment of the damage to property should be carried out by the District Magistrate and Superintendent of Police upon inspection of the place where the atrocity was committed. Therefore, the quantum of relief would vary depending on the assessment of damage but it cannot be equated with full compensation. This is clear from Sub-rule (5) of Rule 12 which specifies that the payment of relief under Sub-Rule (4) is in addition to a compensation claim under any other law. Hence, notwithstanding the receipt of relief, subject to applicable legal principles in this regard, the Petitioner would be entitled to claim compensation from the perpetrator of the atrocity by initiating civil proceedings for such purpose and establishing such claim. Prior to the amendment, as regards an offence under Section 3(1)(v), Annexure -1 provided for relief in a sum of at least Rs.25,000/- or more depending on the nature and gravity of the offences. After the amendment, this was modified to a sum of Rs. 1 lakh but the amendment does not apply to this case. As regards offences under Section 3(2)(iii), Annexure 1 does not expressly prescribe the quantum or even bench mark for relief. In any event, Annexure I merely prescribes norms for relief and column (3) thereof specifies the minimum amount of relief and not the maximum, which would vary based on the assessment made by the statutory authorities.

20. As stated earlier, unfortunately, in the present case, the authorities did not fulfill the statutory obligation under Rules 6 and 12(1), i.e. inspection by the authorities and, in particular, by the District Magistrate and the Superintendent of Police to assess the damage. As a result, there is no assessment by the District Magistrate and the Superintendent of Police. While the statutory authorities are entitled to take the assistance of subordinate officials for purposes of carrying out the assessment, the final decision has to be made by the named statutory authorities. Clearly, this was not done in the present case.

21. When the facts and circumstances are viewed cumulatively, I am of the view that the amount of relief that the State Government has agreed to pay to the Petitioner should be paid as interim relief so as not to defeat the statutory object of providing quick relief. I find that Annexure I to the rules (prior to amendment) specified that the relief amount is required to be paid when the charge sheet is sent to the

Court. This obligation was also not fulfilled in the present case. Therefore, notwithstanding the conclusion that the assessment of damage and the determination of the relief amount were not made in accordance with statute, I am not inclined to delay the process of payment of interim relief pending proper assessment. Therefore, I am inclined to direct the State Government to pay a sum of Rs.1,50,000/- as interim relief. In addition, in fulfillment of the statutory mandate, the District Magistrate and the Superintendent of Police shall make an assessment in terms of the statutory mandate within a period of two months from the date of receipt of a copy of this order. On the basis of such assessment, additional relief, if any, shall be paid to the Petitioner after setting-off the amount already paid in terms of this order.

22. In the result, this writ petition is disposed of on the following terms:

(i) The State Government shall pay a sum of Rs.1,50,000/- to the Petitioner within a period of four weeks from the date of receipt of a copy of this order by way of interim relief.

(ii) The District Magistrate and the Superintendent of Police, Thiruvannamalai District (appropriate statutory authorities) shall undertake an assessment of the damage to the Petitioner's plants and trees in accordance with the statutory prescription and determine the relief amount within a period of two months from the date of receipt of a copy of this order. On the basis of such assessment and determination, the additional relief amount, if any, shall be paid to the Petitioner within one month of such determination.

(iii) Subject to applicable law, this order shall not preclude the initiation of appropriate proceedings by the Petitioner against the 6th Respondent or any other person who may be responsible for the damage to his farm for compensation. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary,
Government of Tamil Nadu
Schedule Caste and Schedule Tribe
Welfare Department,
Fort St. George, Chennai -9.
- 2.The Director,
National Commissioner for Schedule Caste,
Government of India,
State Office Floor-2, Block-5,
Shastri Bhavan, Chennai-6.
- 3.The District Collector,
Thiruvannamalai District,
Office of the Collectorate,
Thiruvannamalai.
- 4.The District Revenue Officer,
Thiruvannamalai District,
Office of the Collectorate,
Thiruvannamalai.
- 5.The Superintendent of Police,
Thiruvannamalai District,
Office of the Superintendent of Police,
Thiruvannamalai.
- 6.The District Magistrate
Tiruvannamalai District

+1 cc to the Mr.M.L.Ramesh Advocate sr2069
+1 cc to Mr.R.Vasudevan Advocate sr2784

W.P.No.4992 of 2010

ajs(co)
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