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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESEVALU

W.P.No.12517 of 2021

S.Prabakaran

... Petitioner

Vs

- 1 The District Collector
Nilgiris District
Udhagamandalam 643 001
- 2 The District Forest Officer
Udhagamandalam Division
Udhagamandalam 643 001
- 3 The Sub Collector
Sub Collector's office
Udhagamandalam 643 001
- 4 The Executive Officer
Naduvattam Town Panchayat
No.16/129, Naduvattam Post Nilgiris 643 224
- 5 Dr. Kavitha Shenbagam
- 6 The Superintending Engineer
TANGEDCO
O/o. Superintending Engineer
Complex building
Coonoor Road Ooty 6

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 4 to take action against the 5th respondent for encroaching reserve forest land situated in S.No.594 Naduvattam Village of Nilgiris District and consequently remove all the illegal constructions and developments made by the 5th respondent in the reserve forest and also in her patta lands.



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For the Petitioner : Mr.C.Vigneswaran

For the Respondents : Mr.R.Shunmugasundaram,
Advocate-General,
Assisted by
Mr.P.Muthu kumar,
Government Advocate,
for respondents 1 to 3

Mr.P.V.Ravichandran,
for the fifth respondent

Mr.M.Abul Kalam,
for the sixth respondent

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The matter pertains to encroachment in a forest land. The allegation in the petition is that the fifth respondent had encroached into reserve forest land at S.No.594, Naduvattam Village in the Nilgiris. The fifth respondent is represented and it is submitted by the fifth respondent that she is a micro-biologist, who grows medicinal plants for distributing the same among poor peasants and local inhabitants. The fifth respondent insists that she has appropriate title and permission to occupy the land that is in her possession.

2. In the earlier orders on this petition, even as the court required the official respondents to look into the specific allegation of the petitioner in this case, the court also required the State to monitor all forest lands to ensure that every bit of encroachment was removed from whatever little forest was left in this State. It is necessary that these forest lands be preserved, if only for the benefit of the human progeny.

3. A status report has been filed by the State through the Principal Chief Conservator of Forests. According to such official, the land in question at S.No.594 consists of 16.775 hectare. The land was notified under Section 4 of the Tamil Nadu Forest Act, 1882, but no final notification under Section 16 of the said Act has yet been issued. Thus, according to the official, the land is a reserved land but, technically, not a reserved forest. The relevant forest land, according to paragraph 5 of the report, is surrounded by land at S.Nos.588, 589, 591 to 593, 595 596, 597 and 599 of Naduvattam Village and the fifth respondent is the owner of the patta land in S.No.589



while Mahaveer Plantation is the owner of the patta land in S.No.596.

4. The report indicates that except for the land held by the patta-holders, there is no encroachment in the remaining reserved land and the petitioner is satisfied that appropriate measures have been taken. Thus, there may not be any need for further concern for the fifth respondent whose right as patta-holder in respect of a parcel of land has been recognised in the said report.

5. The rest of the status report deals with the directions issued by this court on July 28, 2021 urging the State to take every measure possible to stop any further encroachment particularly in the bio-diverse atmosphere of the Nigiris which is ecologically vulnerable. The status report reveals that the District Level Steering Committee headed by the District Collector in the Nilgiris is reviewing the status of encroachment in forest land on a monthly basis. The official reports that as of June 30, 2021, the encroachment in forest land on a pan State level was to the extent of 16250.55 hectare, including in the Nigiris District. The report further reveals that eviction drives have been commenced to remove encroachment from the forest or reserved land, but the encroachers have instituted legal proceedings in some cases.

6. According to the Principal Chief Conservator of Forests, all District Forest Officers, Wildlife Wardens and Deputy Directors have been instructed by a letter dated July 30, 2021 that the encroachments in the forest land and reserved land should be removed as expeditiously as possible by giving 15 days' notice under Section 68A of the Act of 1882. An action plan has been prepared and the Principal Chief Conservator of Forests indicates that much of the forest land which has been encroached upon would be recovered as expeditiously as possible.

7. In view of the stand taken by the State through the said Principal Chief Conservator of Forests, no further action is necessary on the present petition, particularly since the petitioner's grievance appears to have been redressed. Nothing in this order will be perceived to be a pronouncement against the fifth respondent herein. The State should continue to make its best endeavour to recover as much of forest land and reserved land as possible and it is completely unacceptable that even after the series of orders by the Supreme Court in the continuing mandamus case of T.N.Godavarman Thirumulpad, there is more than 16250.55 hectare of forest land which has been encroached.

8. W.P.No.12517 of 2021 is disposed of. There will be no



order as to costs. W.M.P.Nos.13293, 13295, 13296, 13297 and 16149 of 2021 are closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To:

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TANGEDCO
O/o. Superintending Engineer
Complex Bbuilding
Coonoor Road Ooty 6

+1cc to Mr.P.V.Ravichandran, Advocate, S.R.No.48442
+1cc to Mr.M.Abul Kalam,, Advocate, S.R.No.48375

W.P.No.12517 of 2021

MG(CO)
CT(29/09/2021)