



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NOS.11711 AND 27803 OF 2014
AND
M.P.NO.2 OF 2014

W.P.No.11711 of 2014:

A.J.Bheeman

... Petitioner

Vs.

1. The District Collector,
Udhagamandalam,
The Nilgiris District.
2. Divisional Revenue Officer,
Coonoor,
The Nilgiris.
3. Tahsildar
Udhagamandalam
The Nilgiris.
4. M.P.Churian
5. H.Ravi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent to take appropriate action against the 4th and 5th respondents in pursuance to the specific direction issued by the 2nd respondent in its proceedings Na.Ka.P2-7235-2012 dated 14.02.2013.

For Petitioner : Dr.R.Gouri

For R1 to R3 : Mr.M.Rajendiran
Additional Government Pleader

For R4 : Mr.V.Rajesh

For R5 : No Appearance



W.P.No.27803 of 2014:

M.P.Cherian

... Petitioner

WEB COPY

Vs.

1. The District Collector,
Nilgiris District
Collectorate
Udhagamandalam
Nilgiris District
2. The Revenue Divisional Officer,
Coonoor Taluk
Coonoor
Nilgiris District
3. The Tahsildar
Udhagamandalam Taluk
Taluk Office
Udhagamandalam
Nilgiris District
4. A.J.Bheeman

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in respect of the proceedings made in Na.Ka.P2.7235-2012 dated 14.02.2013 on the file of the second respondent herein quash the same.

For Petitioner : Mr.V.Rajesh

For R1 to R3 : Mr.M.Rajendiran
Additional Government Pleader

For R4 : Dr.R.Gouri

COMMON ORDER

The relief sought for in W.P.No.11711 of 2014 is to direct the third respondent to take appropriate action against the respondents 4 and 5 pursuant to the direction issued by the second respondent in proceedings dated 14.02.2013.



2. Admittedly, civil dispute exists between the parties. However, no suits are pending between the parties. With reference to the order dated 14.02.2013, it states that there are civil disputes between the petitioner and the respondents 4 and 5 in respect of a common pathway. However, the Tahsildar, Udhagamandalam submitted a report stating that the respondents 4 and 5 used JCB machine which is prohibited in Nilgiris District. The JCB machine is to be utilized only after getting permission from the District Collector by following the procedures as contemplated.

3. Thus, the learned counsel appearing for the petitioner made a submission that for usage of JCB machines, appropriate actions are to be initiated against the respondents 4 and 5 as such usage is an offence.

4. The learned counsel appearing for the 4th respondent disputed the said contention by stating that at no point of time, the 4th respondent used the JCB machine and the copy of the report submitted by the Tahsildar was not furnished on him. Therefore, the relief sought for is liable to be rejected.

5. With reference to the civil dispute between the parties are concerned, they are bound to resolve the same by approaching the competent Civil Court of law. As far as the usage of JCB machine without the permission of the District Collector is concerned, it is an offence and if at all the allegation is established, then appropriate actions are to be initiated. The order dated 14.02.2013 states that based on the report of the Tahsildar dated 28.01.2013, actions are to be initiated.

6. The 4th respondent filed another writ petition in W.P.No.27803 of 2014 challenging the order dated 14.02.2013 on the ground that the observations made in the order was without any opportunity to the 4th respondent and therefore, the order is to be set aside.

7. This Court is of the considered opinion that as far as the usage of JCB machine without permission of the District Collector in the particular locality being an offence, the opportunity would arise only after initiation of action. Prima facie case is made against any person, in this regard a criminal case is to be registered and thereafter, the person concerned will get an opportunity. In this case, the Tahsildar had submitted a report regarding the usage of JCB machine and who actually used the JCB and who is responsible for such usage of JCB, all subject matter of investigation to be conducted by the competent authorities. This Court, cannot form an opinion in this regard, more so, regarding the allegations against any



of the contesting parties in these two writ petitions. However, with reference to the civil disputes, the parties are at liberty to approach the competent Civil Court of law for establishing their civil rights through documents and evidences available. However, the offences are concerned, the State being the Prosecutor, they have to conduct an investigation and initiate all appropriate actions by following the procedures as contemplated under law.

8. With these directions, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

cse

To

1. The District Collector,
Nilgiris District,
Collectorate,
Udhagamandalam,
Nilgiris District.
2. The Revenue Divisional Officer,
Coonoor Taluk,
Coonoor, Nilgiris District.
3. The Tahsildar,
Udhagamandalam Taluk,
Taluk Office,
Udhagamandalam,
Nilgiris District.

+1cc to Mr.V.Rajesh, Advocate, S.R.No.64600

W.P.Nos.11711 and 27803 of 2014

RSI (CO)
RLP (20/12/2021)