

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 29.03.2021****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD)No.13563 of 2012 and
M.P. (MD)No.2 & 3 of 2012

1. K.Ganesan
2. K.Murugan
3. A.Valathaiyan
4. P.Gurusamy
5. P.Vetriveeran
6. K.P.Pandi
7. P.Mahalingam
8. P.Ramu
9. S.Elango
- 10.K.Kandasamy
- 11.P.Murugesan
- 12.M.Thanikodi
- 13.P.Kottaisamy
- 14.M.Vanarasu

... Petitioners

Vs.

1. The District Collector,
Theni District,
Collectorate Complex,
Theni.
2. The Conservator of Forest,
Madurai Region,
Madurai.
3. The District Forest Officer,
District Forest Office,
Theni District,
Theni.
4. The Inspector of Police,
Kadamalaigundu police station,
Kadamalaigundu,
Theni District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 2 and 3 to allow the petitioners to use the existing



common mud road in Survey No.984 in Kadamalaigundu Village, Andipatti Taluk, Theni District.

For Petitioner : Mr.C.Arul Vadivel @ Sekar
For Respondents : Mr.M.Rajarajan,
Additional Government Pleader.

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O R D E R

Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents.

2. Thiru.Sumesh Soman, Wildlife Warden, Megamalai Wildlife Division, is present before this Court through Video Conferencing and assisted the Court.

3. The prayer in this writ petition is that the petitioners ought not to be prevented from using the petition mentioned pathway in Survey No.984 in Kadamalaigundu Village, Andipatti Taluk, Theni District. The Wildlife Warden would point out that this survey number has already been included in the Gazette Notification issued under Section 16 of Tamil Nadu Forest Act, 1882 published in Part-II Section 2 of the Tamil Nadu Gazette dated 06.04.1988. Even according to the petitioners, survey No.984 is not a patta land but a revenue land. Therefore, inclusion of survey No.984 as a part of the reserved forest cannot be questioned. Though in this case, there is no challenge to the declaration, the learned counsel appearing for the petitioners would draw my attention to the fact that one of the petitioners herein, namely, Thiru.Murugan had filed W.P.(MD)No.1824 of 2013 challenging the validity of the Gazette notification.

4. The said writ petition was disposed of by me by directing the Director of Land Survey, Chennai, to issue fresh proceedings recognizing the rights of Thiru.Murugan and others and issue revised patta in their favour. This is because in the status report filed in the said writ petition, it was admitted that 44.95 Acres in Survey No.863 in Kadamalaikundu Village, was assigned in favour of certain persons. Obviously, those pattadhars must have the right to access their patta lands. The specific case of the petitioners is that only through Survey No.984, in Kadamalaikundu Village, they can access the said lands. I am not in a position to go into the said factual aspect because the Revenue Department has not come forward to file any counter.

5. In this writ petition, petitioners 1 to 5 are not having any patta in their favour. The learned counsel appearing for the petitioners states that petitioners 6 to 14 are having patta lands. When these petitioners are having patta lands, obviously, the right to access the same will have to be necessarily recognized.



6. The Wildlife Warden would fairly state before me that the petitioners can apply through online before MOEF. This Court requests, Thiru.Sumesh Soman, Wildlife Warden to intimate the petitioners' counsel about the procedure to be followed in this regard. Within a period of four weeks after the receipt of such intimation from the Wildlife Warden, petitioners 6 to 14 herein shall file such an application. It is for the concerned competent authority to pass appropriate orders in accordance with law after holding due enquiry by recognising the petitioners' right to access their patta lands. Till such orders are passed, the petitioners' right to access their lands in the present mode will continue.

7. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

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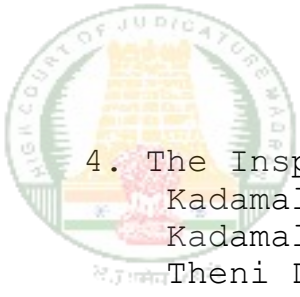
/ /2021

Sub Assistant Registrar(CS)

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,
Theni District,
Collectorate Complex,
Theni.
2. The Conservator of Forest,
Madurai Region,
Madurai.
3. The District Forest Officer,
District Forest Office,
Theni District,
Theni.



4. The Inspector of Police,
Kadamalaigundu police station,
Kadamalaigundu,
Theni District.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-14287[F] dated 30/03/2021)

+1 CC to M/s.SPL GP (SR-14399[F] dated 30/03/2021)

W.P. (MD) No.13563 of 2012
29.03.2021

AS(11.06.2021) 3P 7C