



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2021**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

**W.P. (MD)Nos.9225, 9227 and 9229 of 2021
and W.M.P. (MD) Nos.6954, 6955 and 6958 of 2021
(Through Video Conferencing)**

S.Eswaran : Petitioner in W.P.No.9225/2021

Rajendran : Petitioner in W.P.No.9227/2021

Rajangam : Petitioner in W.P.No.9229/2021

Vs.

1.The Tahsildar,
Uthammapalayam Taluk
Uthammapalayam, Theni District

2.The Executive Officer,
C-Pudupatti Town Panchayat,
Uthammapalayam Taluk
Theni District

: Respondents (in all WPs)

Common Prayer: Petitions are filed under Article 226 of the Constitution of India praying for the issue of a Writs of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.3416/2019/A5 dated 19.04.2021 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

(in all Cases)

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.A.K.Manickam for R1
Standing counsel for
Government of Tamil Nadu
Mr.R.Baskaran for R2
Standing counsel for
Government of Tamil Nadu
Mr.R.Hema Karthikeyan and
Mr.Neelamegam for intervenors



ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J)

Heard Mr.B.Saravanan, learned counsel for the petitioner and the learned standing counsel for the Government for R1 and R2 and Mr.K.Hema Karthikeyan for Thiru.Iyyavu, S/o.Periya Krishnasamy, 180/12 C.Pudupatti and Mr.Neelamegam, learned counsel for C.Pudupatti Vivasayigal Sangam.

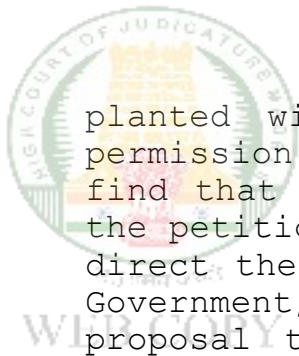
2. The petitioners are aggrieved by the orders passed by the second respondent dated 19.04.2021, in and by which, a direction has been issued to take over certain lands, which are classified as a water body, bring the same under the control of the department.

3. The petitioners have challenged the orders on the ground that it is in violation of principles of natural justice and contrary to the provisions of the Tamil Nadu Land Encroachment Act, 1905.

4. In our considered view, such a plea can be raised by the petitioners, if their possession of the land in question or planting of trees in the said land has been authorised by the authorities. Admittedly, no patta or 2C patta has been granted in favour of the petitioners. The intervenors, namely, Iyyavu and the Vivasayigal Sangam had earlier approached this Court and filed writ petitions, because substantial portion of the catchment area of the Tank that has been covered with soil and trees had been planted by the petitioners herein and few others, who, in fact were granted 2C patta. In any event, as on date, the petitioners have no vested right to claim that they are entitled to the trees, usufructs or to show the list of any portion of the lands on which trees are standing, as admittedly, the property is a Government property.

5. So far as the intervenors are concerned, they would submit that the second respondent ought to have directed the cutting down of the trees, which have been unauthorisedly planted, removal and excavation of the soil, which have covered the major portion of the catchment area, deepen the tank and restore the original capacity of the tank, as on date, there is no challenge made by Mr.Iyyavu or the Vivasayigal Sangam to the impugned order. If they are aggrieved by any portion of the order, it is well open to them to agitate the same or challenge the same before the appropriate forum in accordance with law. We make it clear that any order passed in this writ petition will no way interfere with the said right of the intervenors ie., Iyyavu and Vivasayigal Sangam.

6. Coming back to the case of the petitioners, as pointed out by us earlier, as on date the petitioners have no vested right to claim over the trees or the usufructs. Admittedly, the trees were



planted without permission, usufructs were also enjoyed without permission and there is no levy to the Government. Therefore, we find that there is no error in the order on the grounds raised by the petitioners. Therefore, while dismissing the writ petitions, we direct the authorities to bring the lands under the control of the Government, but, however, for the present, since there is no proposal to cut down the trees, till action as proposed in the impugned order is conducted, the petitioners shall be entitled to enjoy the usufructs from the trees, which are stated to be tamarind trees. We make it clear that this order will not prejudice the rights of the intervenors, namely, Iyyavu and Vivasayigal Sangam to work out their remedies in accordance with law.

7. Accordingly, these writ petitions are dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Tahsildar,
Uthammapalayam Taluk
Uthammapalayam, Theni District

2.The Executive Officer,
C-Pudupatti Town Panchayat,
Uthammapalayam Taluk
Theni District

+1 CC to M/s.SPL GP (SR-19031[F] dated 08/06/2021)

Order made in
W.P. (MD) Nos. 9225, 9227 and 9229 of 2021
Dated: 04.06.2021

mj (CO)

TR(17.06.2021) 3P 4C