



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **15.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.11948 of 2021

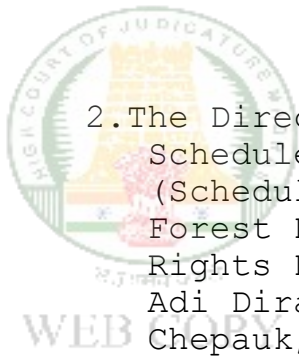
WEB COPY

1. Muthuraman
2. Ramu
3. Karuppasamy
4. Ganapathy
5. Kumar
6. Ramasamy
7. Ramakrishnan
8. Azhagan
9. Deivendran
10. Chinnan
11. Vijayalakshmi
12. Karuppan
13. Meyyan
14. Ganesan
15. Alagan
16. Subramani
17. Karuppasamy
18. Alaguraja
19. Pakyalakshmi
20. Murugan
21. Pitchai
22. Chinnasamy
23. Manikandan
24. Narayanan
25. Thangam
26. Seeniyammal
27. Aundi
28. Pommakkal
29. Kumarandy
30. Aavudaiyammal
31. Vanaraj
32. Ponram
33. Alagar

... Petitioners

Vs.

1. The Government of Tamilnadu,
Rep.by its Secretary to Government,
Forest Department,
Fort St.George,
Chennai.



2.The Director,
Schedule Tribes Welfare Department,
(Schedule Tribes and Other Traditional
Forest Dwellers Recognition of Forest
Rights Department),
Adi Diravidar and Schedule Tribes Welfare Directorate,
Chepauk,
Chennai - 600 005.

3.The District Collector,
Theni District,
Theni.

4.The Tahsildar,
Andipatti Taluk,
Andipatti,
Theni District.

5.The Revenue Divisional Officer,
Periyakulam,
Theni District.

6.The Divisional Forest Officer,
Collectorate Building,
Theni,
Theni District.

7.The Forest Settlement Officer,
Collectorate Building,
Theni,
Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to proceed on the basis of the Gram Sabha Resolutions, dated 15.08.2019 and 06.03.2020 in accordance with law particularly under Chapter IV of the Schedule Tribes and Other Forest Traditional Dwellers (Recognition of Forest Rights) Act, 2006 insofar as the petitioners rights under Chapter III delineating the recognition of and vesting of forest rights are concerned.

For Petitioner : Mr.M.Joseph Thatheus Jerome

For Respondents : Mr.P.Thilak Kumar
Government Advocate



O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Mandamus, to direct the respondents to proceed on the basis of the Gram Sabha Resolutions, dated 15.08.2019 and 06.03.2020, in accordance with law, particularly, under Chapter IV of the Schedule Tribes and Other Forest Traditional Dwellers (Recognition of Forest Rights) Act, 2006, insofar as the petitioners rights under Chapter III delineating the recognition of and vesting of forest rights are concerned.

2.The brief facts of the case are as follows:

(i) The petitioners are all Scheduled Caste and other Most Backward Communities forest dwellers, who have been residing in lands in old Survey No.1 to 1556, which were abolished Zamin Estate as per G.O.3157 Revenue, dated 09.12.1950, under the Tamilnadu Estates (abolition and conversion into ryotwari) Act 1948, belonging to Gandamanur Zamin, Gandamanur, Andipatti Taluk, Theni District. The said lands, in which petitioners were residing, are now in Resurvey No.905 in Vandiyur Sub-Division, Kamarajapuram and Vandiyur, Megamalai Village, Andipatti Taluk, Theni District.

(ii) It is the specific case of the petitioners that for the past 80 years, the petitioners and their families have been residing in the above said lands and they are small landholders and cultivating cotton, coconut, cashew and lime. The livelihood of the petitioners depends entirely on the agricultural and allied animal husbandry activities and that they have been residing in the above lands and paying House Tax, Electricity Tax and all other incidental taxes and all of them are having ration cards and are voters in all Indian Elections. There is a Government Panchayat Office (Thummakundu), Ration (PDS) Shop, Government School (Vandiyur), Temple and Community Land, Kalam, Grazing Fields, roads, pathway, crematorium, cemetery earmarked by the Government for the use of the village forest dwellers in the above said lands which had been wrongly converted into forest during 1988.

(iii) While the matter stood thus, the petitioners made a representation on 24.11.1999 under the Forest Act and in furtherance, they have made representation to the second respondent on 10.07.2018, seeking recognition of their Fundamental and Statutory right under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. With regard to the request made by the petitioners, the District Collector, through the Block Development Officer, convened a Grama Sabha. In the said Grama Sabha, it was resolved as follows:

"(i) the Kamarajarpuram be provided with extended transport connection.



(ii) the Agricultural activities of the villagers be recognised and patta be provided.?

(iv) Subsequently, Grama Sabha of Vandiyur, Kamarajapuram, Thummakundu, Balasubramaniyapuram, Indira Nagar, Valiparai, Gandhigramam, Thandiyakulam, Kodaliyuthu, Muthu Nagar, Nochi Odai, Anjarapuli, Ulluthu, Oyamparai, held meeting consisting of the village assembly adult members under the auspices of the Tahsildar, Andipatti Taluk, Theni District on 06.03.2020 and resolution as required under Section 6(1) of Chapter VI of the Schedule Tribes and other Forest Traditional Dwellers (Recognition of Forest Rights) Act, 2006 was passed as follows:

a) Seeking recognition of the rights of the scheduled Tribes and other forest dwellers of the said villages, regarding their individual patta for their houses and agricultural land holdings.

b) To recognize the right of the crematorium of Thummakundu village.

c) Recognizing the rights of crematorium, pathway and bridge across the stream to the crematorium

d) Recognizing the right of the villagers to have common passage to their lands under the above Act.

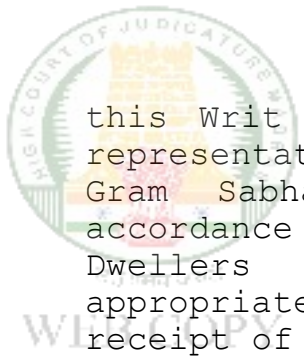
(v) It is the specific case of the petitioners that the rights of the petitioners are required to be recognized at the earliest, as they are being time and again harassed by the forest officials. Hence, this writ petition.

3. The learned counsel for the petitioners would state that the petitioners have made a representation before the respondent on 20.03.2020 along with the resolution passed by the Grama Sabha and it would suffice if a direction is given to dispose of the representation of the petitioners.

4. The learned Government Advocate appearing for the respondents would state that a procedure has been contemplated under the Scheduled Tribes and Other Forest Traditional Dwellers (Recognition of Forest Rights) Act, 2006 and that has to be followed before considering the representation.

5. Heard the submissions made on either side and perused the materials available on record.

6. Considering the limited scope of the prayer sought for in this Writ Petition, without going into the merits of the case projected by the petitioners either in their representation or in



this Writ Petition, the respondents are directed to consider the representation of the petitioners, dated 20.03.2020, based on the Gram Sabha Resolutions, dated 15.08.2019 and 06.03.2020, in accordance with the Schedule Tribes and other Forest Traditional Dwellers (Recognition of Forest Rights) Act, 2006 and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of.
No Costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

Note:(i) 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 Secretary to Government,
The Government of Tamilnadu,
Forest Department,
Fort St. George, Chennai.
2. The Director,
Schedule Tribes Welfare Department,
(Schedule Tribes and Other Traditional
Forest Dwellers Recognition of Forest
Rights Department),
Adi Diravidar and Schedule Tribes Welfare Directorate,
Chepauk, Chennai - 600 005.
3. The District Collector,
Theni District, Theni.
4. The Tahsildar,
Andipatti Taluk,
Andipatti, Theni District.
5. The Revenue Divisional Officer,
Periyakulam,
Theni District.



6.The Divisional Forest Officer,
Collectorate Building,
Theni,
Theni District.

7.The Forest Settlement Officer,
Collectorate Building,
Theni,
Theni District.

+1 CC to M/s.JOSEPH THATHEOS JERO, Advocate (SR-22774[F] dated 15/07/2021)

+1 CC to M/s.SPL GP (SR-22932[F] dated 16/07/2021)

W.P (MD) No.11948 of 2021
15.07.2021

RKN (29.07.2021) 6P 10C