



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 22.09.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.14828 of 2021

P.Jeyaraj

... Petitioner

-Vs-

1.The Chief Conservator of Forests,
Dindigul Circle,
Dindigul.

2.The District Forest Officer,
Dindigul Division,
Dindigul.

3.The Forest Ranger,
Kannivadi Forest Range,
Dindigul District.

4.Sathiyaseelan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 & 2 to grant transit permission to remove Teak Wood trees numbering 50 available in the petitioner's landed property in Survey No.73/2A at Paraipatti Village, Authoor Taluk, Dindigul District so as to transport the same for marketing purpose after affording opportunity to the 4th respondent on the basis of his representation dated 30.03.2021.

For Petitioner	: Mr.J.Lawrance
For Respondents 1 to 3	: Mr.R.Sureshkumar
	Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondents 1 & 2 to grant transit permission to remove Teak Wood trees numbering 50, available in the petitioner's landed property in Survey No.73/2A at Paraipatti Village, Authoor Taluk, Dindigul District, so as to transport the same for marketing purpose, after affording opportunity to the 4th respondent on the basis of the petitioner's representation dated 30.03.2021.

2. That the land in Survey No.73/2A at Paraipatti Village, Authoor Taluk, Dindigul District, belongs to both the petitioner as well as the fourth respondent, who is his bother. In their names, joint patta has also been issued by the revenue, to establish that



the petitioner and the fourth respondent are the joint owners of the property. In that property, according to the petitioner, since about three decades back, his father planted 50 numbers of teak wood trees and those teak wood trees are now ripe for cutting and transportation for selling the same. Therefore, in order to get permission from the second respondent, ie., the District Forest Officer, the petitioner has given a representation on 30.03.2021 and since that representation has not been considered and no orders has been passed giving such permission to the petitioner, he has approached this court by filing the present writ petition, with the aforesaid prayer.

3. Heard Mr.J.Lawrance, learned counsel appearing for the petitioner, who would submit that, though the petitioner as well as the fourth respondent are brothers who are the joint owners and patta stands in the name of petitioner as well as the fourth respondent, insofar as the fourth respondent is concerned, he has not made any claim over the said property and in his portion, he has already cut down a number of trees and sold the same. Therefore, insofar as the portion of the petitioner is concerned, the teak wood trees which are 50 in number have to be cut down and transported, after getting permission from the Forest Officer. Therefore, he has sent a representation in this regard to the second respondent on 30.03.2021 and therefore, the representation of the petitioner be directed to be considered by the respondents, of course, after hearing both the petitioner as well as the fourth respondent and thereafter, an order can be passed, disposing of the said representation, within the time frame that may be stipulated by this Court and in that case, the petitioner would be satisfied, he contended.

4. Per contra, Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents, on instructions, would submit that, insofar as the land in question is concerned, if it belongs to both the petitioner as well as the fourth respondent, as they are brothers, they may have equal right in the said property, wherein if teak wood trees are standing which has to be cut down, for which permission cannot be given to the petitioner alone, unless and until a joint application is made both by the petitioner as well as the fourth respondent before the officials. Otherwise, if the application submitted by the petitioner alone has to be considered, the objection, if any comes from the fourth respondent has to be verified. Therefore, after conducting an enquiry with the petitioner as well as the fourth respondent, the plea raised by the petitioner can be decided by the second respondent on merits and in accordance to law.

5. Having considered the said facts as well as the submission made by both counsel and having regard to the same, this Court feels



that since the petitioner and the fourth respondent are brothers and the property in question, where there are standing teak wood trees, is jointly owned by petitioner and fourth respondent, therefore, if at all any permission is sought for by the petitioner, necessarily, the views of the fourth respondent also has to be heard by the authorities concerned ie., the second respondent. After having considered the views of the petitioner as well as the fourth respondent in writing, ultimately, a decision can be taken by the second respondent with regard to the plea raised by the petitioner through his representation dated 30.03.2021.

6. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

"there shall be a direction to the second respondent to consider the representation of the petitioner dated 30.03.2021. While considering the same, the second respondent shall issue notice to the petitioner as well as the fourth respondent, fixing a date for hearing and on the date of hearing, both shall appear and offer their views by way of statements in writing and after considering such written statements to be submitted in this regard by both the petitioner as well as the fourth respondent, a decision can be taken, as to whether the permission sought for by the petitioner to cut and remove the 50 teak wood trees in the land in question can be permitted or not. The needful as indicated above shall be undertaken by the second respondent within eight (8) weeks from the date of receipt of a copy of this order.

It is made clear that along with a copy of this order, a copy of the representation dated 30.03.2021 also shall be forwarded by the petitioner to the second respondent, who, on receipt of the same, shall do the needful."

7. With these directions, this writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /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 Chief Conservator of Forests,
Dindigul Circle,
Dindigul.

2.The District Forest Officer,
Dindigul Division,
Dindigul.

3.The Forest Ranger,
Kannivadi Forest Range,
Dindigul District.

+1 CC to M/s.SPL. GP (SR-30014[F] dated 23/09/2021)

+1 CC to M/s.J.LAWRANCE, Advocate (SR-30083[F] dated 23/09/2021)

W.P. (MD) No.14828 of 2021
22.09.2021

NSN(CO)
KB(25.10.2021) 4P 6C