



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2021

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.18495 of 2021

WEB COPY

1. Rangaiya
2. Palani
3. Vellaisamy
4. Karuppaiya
5. Thothan
6. Periyakaruppan
7. Velusamy
8. Chinnakuttiyan
9. Malaisamy
10. Ramasami
11. Eswaran
12. Pandiarajan
13. Mahalingam
14. Chandran
15. P.Alagar
16. Chinnandi S/o.Paramasivam
17. Selvam
18. Chinnandi S/o.Subramani

...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

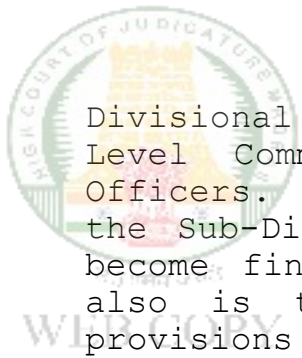
Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to proceed on the basis of their representations, dated 24.11.1999, 11.12.1999, 30.09.2019, 20.03.2020 and resolution, dated 15.08.2019, in accordance with law, particularly, 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 Petitioners	: Mr.M.Joseph Thatheus Jerome
For Respondents	: Mr.R.Suresh Kumar Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents to proceed on the basis of their representations, dated 24.11.1999, 11.12.1999, 30.09.2019, 20.03.2020 and resolution, dated 15.08.2019, 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.These petitioners, for more than 75 years, since from their forefathers, have been residing in forest land, which have been categorized subsequently as forest land. They are also undertaking agricultural activities for all these decades. In order to confer the rights on the Scheduled Tribes and other persons, who had been in long occupation of the forest land, that is, for 75 years and more, their rights can be recognized under the provisions of the Scheduled Tribes and other Forest Traditional Dwellers (Recognition of Forest Rights) Act,2006, (in short "the Act") and the Rules made thereunder. Under the said Act, the rights of the dwellers in the forest land to get patta shall infact be initiated by the Grama Sabha concerned, accordingly, as per the resolution has to be passed in the Grama Sabha, it would be forwarded to the Sub-Divisional Level Committee constituted in this regard by the State Government, which would be headed by a Sub-Divisional Officer or Equivalent Officer as a Chair Person. After the decision is taken in the Sub-



Divisional Level Committee, it would be referred to the District Level Committee, headed by the District Collector and other Officers. Once, the District Committee, after the decision taken by the Sub-Divisional Level Committee, decides the issue, that would become final. Thereafter, the State Level Monitoring Committee, also is there, which can monitor the whole issue under the provisions of the Act.

3. Only in this context, it is the case of the petitioners that, in recognition of their dwelling right for the past more than several decades, that is, more than 75 years, the Grama Sabha of the Village Panchayat concerned, in Kombaitholu in Megamalai Panchayat, passed a resolution on 15.08.2019, and the same though has been forwarded to the respondents, no further action has been taken either at the Sub-Divisional Level Committee or District Level Committee to recognise the rights of the petitioners for their dwelling right as well as the right of doing agricultural activities, and therefore, in order to consider the same, the petitioners have approached this Court by filing the present writ petition.

4. Heard Mr.M.Joseph Thatheus Jerome, learned counsel for the petitioners and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents.

5. When similar issue came up for consideration before this Court in W.P.(MD)No.13829 of 2021 in the matter of **Ganesan and others v. Government of Tamil Nadu represented by the Secretary to Government, Forest Department and others**, this Court, by order, dated 10.08.2021, has discussed the issue in detail and passed the following order:

"8. I have considered the said rival submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

9. It is the claim of the petitioners that, they have been residing in the Forest land for more than 7 or 8 decades, that is, for three generations and more. It is the further claim of the petitioners that they have been doing agricultural activities also in such land. In the typeset of documents, all these petitioners have filed the family card provided by the State Civil Supplies authorities to each of these petitioners, and also in respect of their dwelling houses, the local bodies have collected property tax, and that receipts also had been submitted in the typeset of papers. That apart, the Voter Identity Card and other identifications to establish that they have been residing in the forest land, were also



produced.

10.With that strength, the petitioners already approached the village panchayat concerned, that is, the Grama Sabha of the Village Panchayat, in which, the petitioners have been residing or living, to initiate action within the provisions of the said Act.

11.In this context, if we look at the provisions of the Act, under Section 6, it has been provided that, the Grama Sabha shall be the authority to initiate the process for determining the nature and extend of the individual's or community's forest rights, etc. Therefore, as per Section 6, first, the initiation must be made by the Grama Sabha and once a resolution is passed by the Grama Sabha, it shall be placed before a Sub Divisional Level Committee under Section 6(3) of the Act and thereafter to be placed before the District Level Committee under Section 6(5) of the Act.

12.The Government of India framed rules under the said Act called Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 (in short 'the Rules'). Under the Rules, Rule 3 states about Grama Sabha and Rule 4 speaks about functions of the Grama Sabha. Once, the resolution is passed by the Grama Sabha, that shall be placed before the Sub Divisional Level Committee, which shall be constituted under Rule 5, by the State Government, to be headed by Sub Divisional Officer or equivalent Officer as Chair Person. Functions of the Sub Divisional Committee are given in Rule 6. Like that, the state shall also constitute a District Level Committee under Rule 7, and the functions of the District Level Committee also have been enumerated under Rule 8. That apart, the State Level Monitoring Committee constituted under Rule 9 of the State Government in this regard headed by the Chief Secretary of the State as Chair Person, can monitor the overall action in this regard throughout the State.

13.Therefore, as per the exhaustive procedure as has been contemplated under the Rule, the initiation made by the Grama Sabha shall be placed before the Sub Divisional Committee and once the Sub Divisional Committee makes any decision, the aggrieved persons over the said decisions of the Sub Divisional Committee, can prefer a petition to the District Level Committee within 60 days and



thereafter, the District Level Committee shall decide it, and the decision of the District Level Committee, on the record of forest rights, shall be final and binding.

14. Therefore, the initiation now made by the Grama Sabha by passing a resolution on two dates as referred to above, shall only be the first step, pursuant to which, the same shall be placed before the Sub Divisional Committee constituted in this regard under Section 6 of the Act and the Rule made thereunder, and once a decision is taken by the Sub Divisional Committee, if at all the petitioners get aggrieved, they can prefer further appeal to the State Level Committee for final decision.

15. In that view of the matter, since the procedure has been clearly contemplated under the Act as well as the Rule as referred to above, this Court feel that, the claim made by the petitioners through Grama Sabha resolutions, dated 15.08.2019 and 06.03.2020, can very well be placed before the Sub Divisional Committee for their decision as the next step and thereafter, aggrieved party can prefer appeal to the District Level Committee.

16. In view of the said legal position and having considered the factual matrix of this case, this Court is inclined to dispose of this writ petition with the following order:

"that there shall be a direction to the fifth respondent Revenue Divisional Officer to take up the copy of the resolution passed by the Grama Sabha concerned, in respect of the petitioners' claim under the Act, dated 15.08.2019 and 06.03.2020, and place it before the Sub Divisional Committee constituted in this regard for their decision. Before the Sub Divisional Committee, after giving an opportunity of being heard to the petitioners by permitting them to file further input, if any, in support of their claim, that they have been dwelling in that forest land and doing agricultural activities for more than 75 years, for seeking recognition of their rights in the forest land under the provisions of the Act and accordingly, decide the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order."

17. It is made clear that, the petitioners shall send a copy of the Grama Sabha resolutions dated 15.08.2019 and 06.03.2020 to the fifth respondent,



who in turn, shall act upon as indicated above, that is, placing the same before the Sub Divisional Committee and take action thereon, within the time frame as indicated above. The petitioners shall forward the copy of the Grama Sabha resolutions within a period of two weeks from the date of receipt of a copy of this order and thereafter, the needful as indicated above shall be undertaken by the fifth respondent and the Committee within a period of three months.

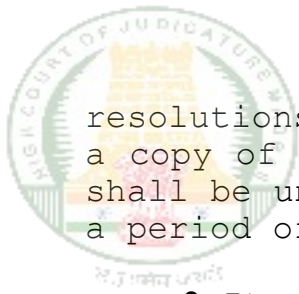
18.It is made clear that while making the application by forwarding the Grama Sabha resolution, the petitioners shall send a formal application as contemplated under Rule 11 of the said Rule."

6.There is no dispute among the learned counsel appearing for the parties in this writ petition, that the present issue raised in this writ petition was also similar to that of the issue, which has been decided in the afore said writ petition.

7.In that view of the matter, this Court feel that this writ petition also can be disposed of in the afore-stated terms passed in the order, dated 10.08.2021, accordingly this writ petition is disposed of with the following orders:

"that there shall be a direction to the fifth respondent Revenue Divisional Officer to take up the copy of the resolution passed by the Grama Sabha concerned, in respect of the petitioners' claim under the Act, dated 15.08.2019 and 06.03.2020, and place it before the Sub Divisional Level Committee constituted in this regard for their decision. The Sub Divisional Level Committee, after giving an opportunity of being heard to the petitioners by permitting them to file further input, if any, in support of their claim, that they have been dwelling in that forest land and doing agricultural activities for more than 75 years, for seeking recognition of their rights in the forest land under the provisions of the Act and accordingly, decide the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order."

8.It is made clear that, the petitioners shall send a copy of the Grama Sabha resolutions, dated 15.08.2019 and 06.03.2020 to the fifth respondent, who in turn, shall act upon as indicated above, that is, placing the same before the Sub Divisional Level Committee and take action thereon, within the time frame as indicated above. The petitioners shall forward the copy of the Grama Sabha



resolutions within a period of two weeks from the date of receipt of a copy of this order and thereafter, the needful as indicated above shall be undertaken by the fifth respondent and the Committee within a period of three months.

9. It is made clear that while making the application by forwarding the Grama Sabha resolution, the petitioners shall send a formal application as contemplated under Rule 11 of the said Rule.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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 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,
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5.The revenue Divisional Forest Officer,
Periyakulam,
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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.P.SIVACHANDRAN, Advocate (SR-31804[F] dated 08/10/2021)

+1 CC to M/s.SPL.GP (SR-31962[F] dated 11/10/2021)

W.P. (MD) No.18495 of 2021
08.10.2021

KS (CO)
GC/PM(01.11.2021) 8P 10C