



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P(MD) .No.20283 of 2021

and

W.M.P(MD) No.16949 of 2021

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Vivekanandan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Environment & Forest Department,
St.George Fort,
Chennai - 9.

2.The District Collector,
Theni, Theni District.

3.The District Forest Officer,
District Forest Office,
Theni, Theni District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents, specifically the third respondent and his subordinates from preventing the petitioner to have access or cultivation in his land in S.F.No.412 situated at Koolaiyanur Village, Bodinaickanur Taluk, Theni District by claiming his land as forest land by considering his representation dated 17.09.2021.

For Petitioner : Mr.D.Venkatesh
For Respondents : Mr.A.Baskaran,
Government Advocate

ORDER

Captioned main writ petition pertains to land ad-measuring 7 acres and 86 cents or thereabouts situate in S.F.No.412 (Survey Number) at Koolaiyanur Village, Bodinaickanur Taluk, Theni District [hereinafter 'said land' for the sake of convenience and clarity].

2.Mr.D.Venkatesh, learned counsel for writ petitioner submits that the said land was purchased by the writ petitioner in and by a registered sale deed dated 26.03.2013 which has been registered as document No.1534/2013 on the file of the jurisdictional registering authority i.e., Sub-Registrar, Chinnamanur.

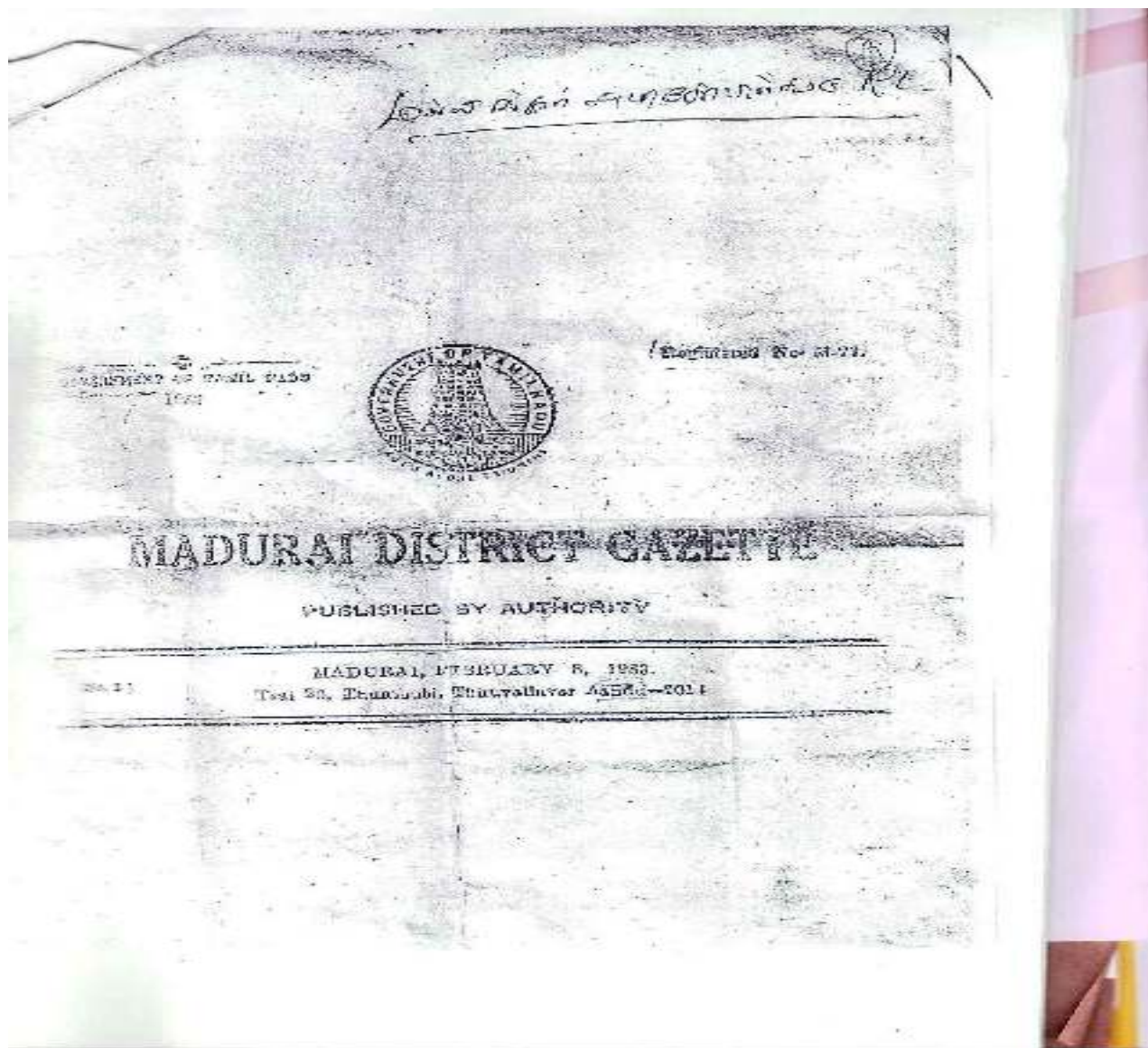
3.A perusal of the photo copy of the registered sale deed placed before this Court brings to light that the writ petitioner is



the vendee and the vendor is one Mr.I.Mohasin, but he is represented by his power of attorney agent Mr.S.Saravanan, who appears to be writ petitioner vendee's sibling. Owing to the scope and ambit of the captioned writ petition, I refrain myself from delving any further into this facet of the matter.

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4.To be noted, scope of the captioned writ petition is qua a prayer to mandamus (a negative mandamus) the respondents restraining them from causing interference qua writ petitioner's access to said land on the ground that it is reserve forest land. Furthering his submissions in this direction, learned counsel for writ petitioner submitted that the interference is on the basis of a gazette publication dated 08.02.1983 (Madurai District Gazette Publication) issued by the District Collector of Madurai. This District Gazette Publication as placed before this Court reads as follows :





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SCHEDULE.				
MADRAS DISTRICT.				
Periakulam taluk.				
Serial number.	Name of the village.	Survey number.	Area.	Total.
(1)	(2)	(3)	(4)	(5)
I.	40, Koolayannur	412 413 414 415 416 417 418 419 420 421 422	7 38 8 14 1 32 2 40 1 08 1 31 3 02 50 10 4 21 1 05 2 00	79 46
II.	53, Koolayannur	1 2 3	24 06 1 22 7 17	75 45
III.	58, Koolayannur	487 511 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000	14 10 4 60 17 08 11 29 105 23 17 15 10 84 55 18 17 20 25 85 1402 00	1395 77
IV.	67, Koolayannur	645	19 43	1395 77
V.	66, Koolayannur	649	107 13	1395 77
Total				1395 77

Boundaries.

North.—Starting from the tri-junction point of S. P. Nos. 643 and 644 of V. No. 51, Koolayannur and S. P. No. 640 of V. No. 50, Koolayannur village. Thence the boundary runs eastwards along the southern boundary of S. P. Nos. 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

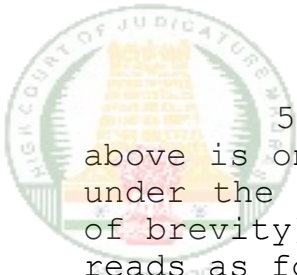
East.—Thence the boundary runs southwards along the western boundary of S. P. No. 640 of V. No. 50, Koolayannur village. Thence it runs southwards

between the common boundaries of V. Nos. 51 of Koolayannur village and till it meets the tri-junction point of S. P. Nos. 640 of V. No. 50, Koolayannur village and S. P. Nos. 412, 413, 414 of V. No. 50, Koolayannur village. Thence the boundary runs eastwards along the northern and eastern boundary of S. P. No. 412. Then the boundary runs eastwards, southwards along the northern and eastern boundaries of S. P. Nos. 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

South.—Thence the boundary runs westwards along the northern boundary of S. Nos. 6, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

West.—Thence the boundary runs northwards along the western boundary of S. P. Nos. 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Madras District, Periakulam Taluk, Koolayannur Village.



5.Learned counsel for writ petitioner submitted that the above is only a proposal, the writ petitioner sought certain details under the 'Right to Information Act, 2005' ['RTI Act' for the sake of brevity] and the response to the same as placed before this Court reads as follows :

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ந.க.எண்.83/2021/ஆ. நாள். 07.06.2021

பேரன்
திரு.விவேகானந்தன்,
த/பெ.க/மணிபட்டம்,
எண்.3/42 வேலன் நகர்,
உராபுரம் ரோடு,
உடுமலைப்பேட்டை,
திருப்பூர் மாவட்டம்.

மாவட்ட வன அலுவலகம்,
தேனிக் கோட்டம், தேனி.

பேரன் : தகவல் அறியும் உரிமைச் சட்டம் 2005-ன் கீழ் சில தகவல்கள் கோரியது - தொடர்பாக.

பார்க்க : 1. பொதுத்தகவல் அலுவலர்/மாவட்ட ஆட்சியரின் நேர்முக உதவியாளர் (பொது) மாவட்ட ஆட்சியர் அலுவலகம், தேனி, ந.க.எண்.13046/2021/ஆ.1, நாள்: 05.05.2021
2. வனச்சரக அலுவலர், உத்தமபாளையம். ந.க.எண். 83/2021 நாள்.26.05.2021

மேற்காண் பேரன் தொடர்பாக, பார்க்க 1-வான கடிதத்தின் மூலம் வரப்பெற்ற தங்களது தகவல் அறியும் உரிமைச் சட்டம் மனுவில் கேட்கப்பட்டுள்ள தகவல்களுக்கு கீழ்க்கண்டவாறு பதிலளிக்கப்படுகிறது.

சேனி மாவட்டம், போடிநாயக்கனூர் வட்டம், சடையநூர் கிராமப்புல எண்கள் 412, 414/2, 525 ஆகிய மூன்று புலங்களில் 412 மற்றும் 414 ஆகிய இரண்டு புலங்களும் மதுரை மாவட்ட அரசிதழின்படி (08.02.1983) வன நிலமாக அறிவிக்கை செய்யப்பட்டுள்ள காரணத்தினால் மேற்கண்ட இரண்டு புல எண்களில் மட்டும் ஆக்கிரமிப்பு ஏற்படாமல் வனப்பணியாளர்கள் தடுத்துநிறை என்பது இதன் மூலம் தெரிவித்துக்கொள்ளப்படுகிறது.

இணைப்பு: மதுரை மாவட்ட அரசிதழ் நகல்

பொதுத்தகவல் அலுவலர்
கண்காணிப்பாளர்
தேனி வனக்கோட்டம், தேனி.

9-6-2021



6.Mr.A.Baskaran, learned Government Advocate (Civil Side) accepts notice on behalf of all the three respondents.

7.Owing to the narrow compass and acute legal angle on which the captioned matter turns, main writ petition is taken up with the consent of both sides.

8.A perusal of the aforementioned District Gazette notification and the RTI response make it clear that the crux and gravamen of the lis is the aforementioned District Gazette Notification dated 08.02.1983 as the bone of contention turns on that. In this regard, for completion of facts, it is necessary to record that learned Counsel for writ petitioner submitted that such a notification can be issued only by 'Government' under Section 4 of the 'Tamil Nadu Forest Act, 1882' [hereinafter 'said Act' for the sake of convenience and clarity] and 'Government' has been defined under Section 2 being interpretation clause of said Act.

9.Learned State Counsel submits that the above submissions are completely outside the scope of the captioned main writ petition and the writ petitioner cannot be heard to raise these contentions as the notification has not been put to challenge.

10.This Court has no difficulty in accepting aforementioned simple argument of the learned State Counsel.

11.The writ petitioner if aggrieved (if at all and if that be so) should only assail the aforementioned District Gazette publication dated 08.02.1983 and any consequent communication either directly or via RTI Act. The writ petitioner not having done that cannot succeed in the captioned writ petition. Therefore, the captioned writ petition is dismissed and consequently, captioned WMP is also dismissed, albeit preserving the rights of the writ petitioner to challenge the aforementioned notification dated 08.02.1983 and any other consequential communication/s if so advised and if so desired. Though obvious, it is made clear that if the writ petitioner chooses to take this legal route, the challenge will be examined by a legal drill uninfluenced by any observation made in this order. There shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Environment & Forest Department,
St.George Fort,
Chennai - 9.

2.The District Collector,
Theni,
Theni District.

3.The District Forest Officer,
District Forest Office,
Theni,
Theni District

+1 CC to M/s.SPL.GP (SR-34255[F] dated 12/11/2021)

W.P (MD) .No.20283 of 2021

11.11.2021

RD(29.11.2021) 6P 5C