



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.1114 of 2019

and

C.M.P (MD)No.9963 of 2019

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The Deputy Director/Conservator of Forests,
Kalakad Saranalayam
Kalakad - 627 501,
Nanguneri Taluk,
Tirunelveli District.

... Appellant/Petitioner

Vs.

M.Gopinathan

... Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent,
praying to set aside the order dated 22.08.2019 made in W.P.[MD]
No.19205 of 2018 on the file of this Court.

Prayer in WP(MD). 19205/ 2018 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorarified Mandamus, call for the records of the respondent in
Na.Ka.No.M/445/2018, dated 04.04.2018 and quash the same as illegal
and arbitrary and in consequence thereof direct the respondent to
permit the petitioner to ply his Jeep bearing registration Number in
TN 74 AK 8499 from Thirukankudi to Malainambi temple

For Appellant : Mr.K.P.Krishnadoss

Special Government Pleader

For Respondent : Mr.R.Murugan

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.P.Krishnadoss, learned Special Government Pleader
for the appellants and Mr.R.Murugan, learned Counsel appearing for
the respondent.

2.This writ appeal filed by the Government is directed
against the order dated 22.08.2019 passed in W.P.[MD]No.19205 of
2018. The writ petition was filed by the respondent herein
challenging the order passed by the appellant, dated 04.04.2018 and
for a consequential direction to permit the petitioner to ply his
Jeep bearing Registration No.TN-74-AK-8499 from Thirukankudi to
Malainambi Temple.

3.Learned Writ Court disposed of the Writ Petition issuing



certain directions by permitting the plying of the Jeep and also for the performance of annathanam. When the writ appeal was heard for admission, the following interim order was passed on 01.11.2019 :-

"Notice to the respondent through Court and privately for the hearing on 10.12.2019.

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2. We have heard Mr.S.Angappan, learned Government Advocate appearing for the appellant.

3. The question to be tested in this case is whether the private party / writ petitioner shall be entitled as a matter of right to take his private vehicle inside a reserved forest that too in a hilly terrain. It is no doubt true that in the area in question, there is a temple in the hill. However, the Forest Department has permitted a list of Jeeps owned by the persons residing in the village to transport passengers to the temple every Saturday.

3. Mr.L.Andiappan, Forest Guard, who is present in Court submits that this procedure was adopted to ensure that all the Jeep Drivers and owners are not affected and this practice has been notified and implemented without any hindrance.

4. It is submitted by the learned Government Advocate that the Forest Department has permitted Annathanam to be performed in the temple on certain festivals dates and for transportation of material to conduct Annathanam, the Forest Department states that it has to be transported in a single tractor. But the writ petitioner insists that he will take the material in his private Jeep and he is sponsoring Annathanam. Prima facie there is no vested right to the writ petitioner for such transportation.

5. We were surprised to know that very recently, the Forest Department has taken a decision to permit Annathanam in the hilly temple and the material to be transported. It is not clear as to how the Forest Department will be able to monitor the disposal of the waste aspects, when a large number of devotees are being fed in the hilly temple. This could seriously affect the environment. Therefore, we direct the appellant to explain as to how such practice has been adopted very recently, when earlier Forest Department did not permit to conduct such feeding rituals in the hilly temple.

6. For the above reasons, while entertaining



the writ appeal, there will be an order of interim stay of the directions issued by the learned Single Bench until further orders.

7. List this writ appeal on 10.12.2019."

4. The learned counsel appearing for the respondent / writ petitioner submitted that as of now, nothing survives for consideration in this writ appeal, as the period fixed in the impugned order in paragraph No.10 is already over. We have not agreed over the said submission, since the larger issue is involved as to whether the writ petitioner has a right to ply his jeep in a reserve forest and also to perform certain religious activities. It is a settled legal position that nobody has got any vested right to carry on any activity or tread into the reserve forest. Therefore, the order passed in the writ petition is called for interference.

5. Accordingly, this Writ Appeal is allowed and the impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// 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

The Deputy Director/Conservator of Forests
Kalakad Saranalayam, Kalakad-627 501.
Nanguneri Taluk, Tirunelveli District.

+1 CC to M/s.R.MURUGAN, Advocate (SR-16862[F] dated 21/04/2021)
+1 CC to M/s.SPL GP (SR-16924[F] dated 21/04/2021)

JUDGMENT MADE IN
W.A. [MD]No.1114 of 2019

20.04.2021