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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.3292, 3294, 3297 & 3299 of 2022
and

W.M.P.Nos.3431, 3432, 3434 & 3435 of 2022

P.Narthey Kuttan

..Petitioner
(in W.P.No.3292 of 2022)

M.Ramesh

..Petitioner
(in W.P.No.3294 of 2022)

B.Athod Kuttan

..Petitioner
(in W.P.No.3297 of 2022)

P.Kasthey Kuttan

..Petitioner
(in W.P.No.3299 of 2022)

Vs.

1. The Chief Secretary,
Government of Tamil Nadu and The Chairman,
State Level Monitoring Committee,
Under Scheduled Tribes and other Traditional
Forest Dwellers (Recognition of Forest Rights)
Rule, 2007,
Fort St. George,
Chennai - 600 009.
2. The District Collector cum Chairperson,
District Level Monitoring Committee,
Under Scheduled Tribes and other Traditional
Forest Dwellers (Recognition of Forest Rights)
Rule, 2007,
Collectorate, Udhagamandalam,
The Nilgiris District - 643 101.
3. The District Forest Officer,
Udhagamandalam,
The Nilgiris District - 643 101.



4. The Forest Ranger,
Pykara Range, Udhagamandalam,
The Nilgiris District - 643 101.

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..Respondents (in all cases)

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the respondents from restraining the petitioners to conduct the horse Joy riding in the 9th Mile Tourist Spot, Ooty and consequently direct the 1st Respondent to initiate action under Section 7 of the Schedule Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 to safe guard the right of the petitioners under the Act.

(in all the cases):

For Petitioner :Mr.R.Balaramesh (in all W.Ps)

For RR 1 & 2 :Mr.K.Karthik Jagannath
Government Advocate (in all W.Ps)

For RR 3 & 4 :Mr.T.Sreenivasan
Special Government Pleader (forest)
(in all W.Ps)

C O M M O N O R D E R

These Writ Petitions are filed for issuance of writ of Mandamus, forbearing the respondents from restraining the petitioners to conduct the horse joy riding in the 9th Mile Tourist Spot, Ooty and consequently direct the 1st respondent to initiate action under Section 7 of the Schedule Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 to safe guard the right of the petitioners under the Act.

2.The issues involved in all the Writ Petitions are one and the same and hence, they are disposed of by this common order.

3.By consent of both the learned counsel appearing for the petitioners as well as Mr.K.Karthik Jagannath, learned Government Advocate who takes notice for the respondents 1 & 2 and Mr.T.Sreenivasan, learned Special Government Pleader (forest), who takes notice for the respondents 3 & 4, this Writ Petition is taken up for final hearing at the admission stage itself.



4. According to petitioners, they belong to Toda Tribe community in the Nilgiris District and they earned their livelihood through horse joy riding from tourists who visit the places. The Eco Development Committee (EDC) in Pagal kodmund was formed in the year 2012 with the support of the Forest Department. The 3rd respondent is the Member Secretary of the said Eco Development Committee (EDC). The tourism activity was regulated by the Forest Department. Due to unemployment, the Eco Development Committees (EDC) have started functioning in the Toda hamlets, providing a regular source of income to a number of Toda youth in ecotourism in their own landscapes. On application to the committee, the committee has given permission to the petitioners on condition that they pay a daily subscription of a sum of Rs.50/- per horse for using horse for joy riding. The petitioners have complied with the said conditions. While so, the 4th respondent is interfering with the petitioners business and not permitting the petitioners and others to carry on their business of horse joy riding. In such circumstances, the petitioners have sent representations dated 03.01.2022 to the respondents 1 & 2 to initiate action under Section 7 of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The respondents 1 & 2 have not passed any order on the representations sent by the petitioners. Hence, the petitioners have come out with the present Writ Petitions.

5. On instructions, Mr.T.Sreenivasan, learned Special Government Pleader (forest) appearing for the respondents 3 & 4 submitted that in the name of horse joy riding, the petitioners and others are riding the horse to graze the land and spoiling the Eco Development. Hence, the 4th respondent has prevented them from horse joy riding. He further submitted that the petitioners as a matter of right cannot claim right contrary to the Forest Rights Act and prayed for dismissal of all the Writ Petitions.

6. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate appearing for the respondents 1 & 2 and the learned Special Government Pleader (forest) appearing for the respondents 3 & 4 and perused the entire materials on record.

7. Even though the petitioners are seeking larger relief in the Writ Petitions, considering the contention of the learned counsel appearing for the petitioners and learned Special Government Pleader (forest) appearing for the respondents 3 & 4, it is suffice to direct the respondents 1 & 2 to consider the



representation of the petitioners dated 03.01.2022 and after hearing the petitioners and respondents 3 & 4, pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

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8. The Writ Petition is disposed of with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Krk

To

1. The Chief Secretary,
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State Level Monitoring Committee,
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Pykara Range, Udhagamandalam,
The Nilgiris District - 643 101.



+4 CCS to Mr.R.Balaramesh, Advocate sr 10857 to 10860

+1 CC to The Government Pleader sr 11614

+1 CC to The Special Government Pleader (Forest) sr 11394

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and

W.M.P.Nos.3431, 3432, 3434 & 3435 of 2022

SSV(CO)

SP(09/03/2022)