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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.19390, 19391 & 19392 of 2010

1. S.Amaresan
2. J.Surliramasamy
3. S.Logamani
4. R.Pandurangan
5. A.Chinnammal (Died)

[P5 died, but her legal heirs are not interested in prosecuting the writ petition (as per court order dated 21.04.2022 made in WMPs.9526, 9529 of 2022 in WP.No.19391 of 2010)]

... Petitioners in W.P.No.19390 of 2010

1. R.Ramaraj
2. R.Murugesan
3. D.Vanamurugan
4. P.Surulibomu (Deceased)
5. P.Pandiyan (Deceased)
6. S.Selvan
7. Pounthai
8. Rajan

... Petitioner in WP.No.19391 of 2010

(The petitioners P6 to P8 brought on record as legal heir of the deceased 4th petitioner vide order dated 21.04.2022 made in W.M.P.No.9526/2022 in W.P.No.19391 of 2010)

9. P.Sivakumar
10. Surya
11. D.Sumathi

(The petitioners P9 to P11 brought on record as legal heir of the deceased 5th petitioner vide order dated 21.04.2022 made in W.M.P.No.9529/2022 in W.P.No.19391 of 2010)

... Petitioners in W.P.No.19391 of 2010

P.Surlivel

... Petitioner in W.P.No.19392 of 2010

Vs.



1. Union of India,
Represented by its Secretary,
Ministry of Tribal Welfare,
New Delhi.

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2. State of Tamil Nadu,
Represented by its Secretary to Government,
Forest Department,
Fort St. George,
Chennai - 9.
3. The District Collector,
Theni District,
Theni.
4. The District Forest Officer,
Theni District,
Theni.
5. The Forest Ranger,
Gudalur Range,
Lower Camp,
Uttamapalayam Taluk,
Theni District.

... Respondents in all W.Ps.

COMMON PRAYER : Writ Petitions are filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents herein from taking any steps to evict the petitioners herein from the land in their occupation in Suranganar Beat, Pandikuzhi, 4th Mile, Lower Camp Post, near Kerala - Tamil Nadu Border, Uttamapalayam Taluk, Theni District without complying with the orders passed in W.P.No.14174 of 1993 dated 4.9.2000 as well as W.P.No.46235 of 2002 dated 27.12.2002 and consequently direct the respondents to consider the case of the petitioners on the basis of the provisions contained in the Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006, by conferring a right to hold and to live in the forest land for habitation / for self cultivation for livelihood.

In all W.Ps.

For Petitioners : Mr.A.Jenasenan

For R1 : Mr.B.Sudhir Kumar
Senior Central Govt. Standing Counsel

For R2 to R5 : Mr.B.Tamilnidhi
Additional Government Pleader



COMMON ORDER

These Writ Petitions have been filed to forebear the respondents herein from taking any steps to evict the petitioners herein from the land in their occupation in Suranganar Beat, Pandikuzhi, 4th Mile, Lower Camp Post, near Kerala - Tamil Nadu Border, Uttamapalayam Taluk, Theni District without complying with the orders passed in W.P.No.14174 of 1993 dated 4.9.2000 as well as W.P.No.46235 of 2002 dated 27.12.2002 and consequently direct the respondents to consider the case of the petitioners on the basis of the provisions contained in the Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006, by conferring a right to hold and to live in the forest land for habitation / for self cultivation for livelihood.

2. The petitioners are living in the fringe areas of the forest near Kumily. Earlier the petitioners had approached this Court in W.P.Nos.14174, 17552, 19711, 18185 of 1993 & 381 of 1995 which were finally disposed by this Court vide its order dated 04.09.2000 with the following observations :-

"When the above matters have come up for hearing, learned counsel has stated that the petitioners are in occupation of the lands for a quite long time. The lands are situated in the forest area of Uthamapalayam taluk, which is the border area between Tamil Nadu and Kerala. Learned Counsel has further argued that the respondents have not considered their representations in the light of the G.O.Ms.No.930 dated 7.8.84. Learned Counsel has further argued that the Government has issued the above G.O., directing the Uthamapalayam Taluk Forest District Revenue Officer to conduct joint inspection as per Section 8 of the Tamil Nadu Forest Act 1882. The D.R.O. must consider the report and include necessary points in his objections submitted to the Forest Settlement Officer. Learned Counsel argued that the respondents are still in possession of the land. Counsel for petitioner submitted that the respondents may be directed to consider their representations.

2. In view of the fact that the Government itself has come forward to conduct joint inspection report, without going into the merits of the case, it would be appropriate if direction is issued to the respondents to consider the representation made by the



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petitioners herein and pass orders, if not already passed within a period of three months from the date of receipt of this order. With the above observations, the writ petitions are disposed of. No costs"

Thereafter, since no orders passed, one of the petitioners once again filed the writ petition in W.P.No.46235 of 2002, which has also been disposed on 27.12.2002. During the interregnum, "The Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006", came into force with effect from 02.01.2007.

3. The learned counsel appearing for the petitioners submits that the petitioners will be satisfied when the representations of the petitioners are considered in the light of the aforesaid Act that seeks to protect the rights of the petitioners.

4. On the other hand, the learned Additional Government Pleader appearing for the second to fifth respondents submits that since, the representations of the petitioners are of the year 2007 and almost 15 years of lapse, the petitioners may be directed to give fresh representations to the authorities assigned under the Act and if such representations are made, the authorities under the Act will pass appropriate orders, in accordance with law.

5. Considering the above submissions made by the learned Additional Government Pleader appearing for the second to fifth respondents, this Court is inclined to dispose these writ petitions, by directing the petitioners to give fresh representations under the provisions of "The Scheduled Tribe and other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006" within a period of four weeks from the date of receipt of a copy of this order. If such representations are received by the appropriate authority under the Act, appropriate orders shall be passed within a period of 4 weeks thereafter. Pending such exercise status quo as on date, should be maintained.

6. Accordingly, these Writ Petitions stand disposed of with the above observations. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Ministry of Tribal Welfare,
New Delhi.
2. The Secretary to Government,
Forest Department,
Fort St. George,
Chennai - 9.
3. The District Collector,
Theni District,
Theni.
4. The District Forest Officer,
Theni District,
Theni.
5. The Forest Ranger,
Gudalur Range,
Lower Camp,
Uttamapalayam Taluk,
Theni District.

+1cc to M/s.B.Sudhir Kumar, Advocate, S.R.No.32998

+3ccs to M/s.A.Jenasenan, Advocate, S.R.No.32776

+1cc to the Special Government Pleader (Forest), S.R.No.33399

W.P.Nos.19390, 19391 & 19392 of 2010

RR(CO)
UMA(23/06/2022)