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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.32853 of 2015

and

M.P.No.1 of 2015

- 1.M.Durai
- 2.Thirumal
- 3.Ramasamy
- 4.Duraiiraji
- 5.Perumal
- 6.Thangaraji
- 7.Kuppusamy
- 8.Manikkam
- 9.Govindan
- 10.Thirupathi
- 11.Manikkam
- 12.Chinnaiyan
- 13.Raman
- 14.Kuppan
- 15.Ramakrishnan
- 16.Selvan
- 17.Annamalai
- 18.Chinnaraji
- 19.Sivamani
- 20.Thirupathi
- 21.Ashokkumar
- 22.Govindan
- 23.Jayamani
- 24.Govindaraji
- 25.Lakshmi
- 26.Natarajan
- 27.Perumal
- 28.Govindan
- 29.Ponnusamy
- 30.Chinnapaiyan
- 31.Shankar
- 32.Natarajan
- 33.Vellaiyan
- 34.Ponnusamy
- 35.Duraisamy
- 36.Chakkarai
- 37.Ponnusamy



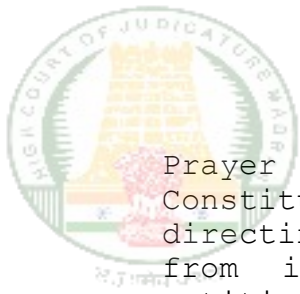
38.Mani
39.Ravi
40.Harichandran
41.Chandra
42.Govindan
43.Annadurai
44.Senthamarai
45.Thiyagarajan
46.Rajamani

...Petitioners

Vs.

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009.
2. The Secretary
Adi Dravidar and Tribal Welfare Department
Fort St. George
Chennai 600 009.
3. The Director of Tribal Welfare
Ezhilagam
Chepauk
Chennai 600 005.
4. The Chief Forest Conservator
Panagal Building
Saidapet
Chennai 600 015.
5. The District Collector
Thiruvannamalai District
Thiruvannamalai.
6. The Revenue Divisional Officer
Thiruvannamalai.
7. The Thasildar
Polur
Thiruvannamalai District.
8. The Forest Ranger
Jamuna Marathur
Javvadu Hills
Polur Taluk
Thiruvannamalai District.

...Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the nature of such writ forbearing the respondents from interfere with the possession and enjoyment of the petitioners cultivating land as hereditary basis situated at Jamunamarathur, Javvadu Hills, Polur Taluk, Thiruvannamalai District till the disposal of the W.P.No.4533 of 2008 on the file of the Hon'ble Supreme Court of India based on their representation dated 07.09.2015.

For Petitioners : Mr.M.Saravanakumar

For Respondents : Mr.T.K.Saravanan
Government Advocate

O R D E R

This writ petition has been filed by the petitioners who are claiming that they are cultivating the lands from time immemorial at Javvadu Hills and that an attempt was made by the respondents to interfere with their possession and enjoyment of the lands cultivated by them. Hence, the petitioners have sought for the issuance of the writ of mandamus forbearing the respondents from interfering with their possession and enjoyment of their cultivable lands till the connected writ petition pending before the Hon'ble Supreme Court is disposed of.

2.The case of the petitioners is that they all belong to Scheduled Tribe community and have been living in the Javvadu Hills for a long period of time. The further case of the petitioners is that their main livelihood is the income derived from agriculture, wherein, they cultivate pulses in the cultivable lands.

3.The Government of India made an enactment called as the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and according to the petitioners, there were various provisions which virtually took away the rights of the Scheduled Tribes who have been living in forests and hence, it was put to challenge and the same is pending before the Hon'ble Supreme Court.

4.The grievance of the petitioners is that the 8th respondent all of a sudden started trespassing into the agricultural lands of the petitioners and was preventing the petitioners from cultivating the lands. According to the petitioners, their only livelihood is the income that is derived by them by selling the agricultural products and that was sought to be prevented by the 8th respondent on the ground that the



petitioners are encroaching upon the forest land. Left with no other option, the present writ petition has been filed before this Court seeking for appropriate directions.

5.The 8th respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

3.It is respectfully submitted that the area has been declared by the Government of Tamil Nadu in Notification No.388 dated 23.7.1888 Patrakad Reserve Forest to an extent of 9623.51 hectares and Veerappanur Reserve Forest to an extent of 9340.11 hectares under Section 16 of the Tamil Nadu Forest Act, 1882.

4.It is respectfully submitted that the contents mentioned in this Para are correct and the issue is pending before the Hon'ble Supreme Court of India.

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7.It is respectfully submitted that the contention of the petitioner that the Respondent 4 and 8 are attempting to disturb their livelihood is not correct. As submitted by the petitioner the respondent is not disturbed the land utilized by the petitioner for the past 100 years. The land claimed by the petitioner is fixed in the Google Map of the year 2015 as well as in the Reserve Forest made as on 1980 in enclosed.

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11.It is respectfully submitted that the petitioner themselves have agreed that the issue is pending before the Hon'ble Supreme Court and as such if the request of the petitioners is accepted it is difficult to vacate them on a later date from cultivating and this will also create law and order problem. It is respectfully submitted that the reserve forest cannot be diverted for any non-forestry purpose as per the Forest (Conservation Act, 1980). In fact, the petitioners 5 to 46 are presently cultivating in their own land and their livelihood cannot be questioned and no hindrance is caused by the Answering Respondent to carry out the same. I submit that in the guise of cultivating the patta lands, the Reserved Forest Areas adjoining the patta lands have been cleared and encroached upon by the landowners. I submit in such cases of encroachment, the Answering Respondent is bound to take appropriate action to



safeguard the interest of the Reserve Forest and to protect the environment prevailing there.

6. Heard Mr.M.Saravanakumar, learned counsel appearing on behalf of the petitioners and Mr.T.K.Saravanan, learned Government Advocate appearing on behalf of the respondents.

7. It is clear from the stand taken by the 8th respondent that no attempt is being made to interfere with the livelihood of petitioners insofar as the agricultural activities that are undertaken in their cultivable lands. The dispute arises only when the petitioners attempt to encroach upon the reserved forest areas. Once such encroachment takes place, the 8th respondent has to necessarily interfere and protect the reserved forest. That has been made very clear at Paragraph No.11 of the counter affidavit filed by the 8th respondent.

8. In view of the above, the stand taken by the 8th respondent is recorded and it is made clear that the 8th respondent will take action against the petitioners and others only when an attempt is made to encroach upon the reserved forest area for the purpose of cultivation. Till, the cultivation is confined to the cultivable lands belonging to the petitioners, the 8th respondent himself has stated that no disturbance will be caused to the petitioners.

9. This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009.
2. The Secretary
Adi Dravidar and Tribal Welfare Department
Fort St. George
Chennai 600 009.



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3. The Director of Tribal Welfare
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4. The Chief Forest Conservator
Panagal Building
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5. The District Collector
Thiruvannamalai District
Thiruvannamalai.

6. The Revenue Divisional Officer
Thiruvannamalai.

7. The Thasildar
Polur
Thiruvannamalai District.

8. The Forest Ranger
Jamuna Marathur
Javvadu Hills
Polur Taluk
Thiruvannamalai District.

+1cc to Mr.M.Saravanakumar, Advocate SR. No. 32612
+1cc to Government Pleader SR. No. 33062

W.P.No.32853 of 2015
and
M.P.No.1 of 2015

RGN (CO)
PR (20/06/2022)