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W.P.Nos.16830 to 16839 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.Nos.16830 to 16839 of 2014

WP.No.16830 of 2014:

K.Parvathi

.. Petitioner

Vs.

1.The State of Tamil Nadu
rep.by the Secretary to Government,
Revenue Department, Fort St.George,
Chennai 600 009.

2.The State of Tamil Nadu
rep.by the Secretary to Government,
Environment and Forest Department,
Fort St.George, Chennai 600 009.

3.The District Collector,
Vellore District, Vellore.

4.The Tahsildar,
Tirupattur Taluk, Vellore District.

5.The District Forest Officer,
Vellore, Vellore District.

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India
praying of issuance of Writ of Mandamus Directing the respondents to issue



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Patta to the petitioner for the lands comprised in Vazhuthalapattu , Nadukuppam Post, Pudurnadu Village, Tirupattur Taluk, Vellore District. to an extent of 3.00 acres.

For Petitioner : Mr.V.Thirupathi
For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The petitioners have filed these petitions for issuance of writ of Mandamus Directing the respondents to issue Patta to the petitioners for their lands.

2. Since the issue arises in the present cases are one and the same, all these writ petitions are taken up together and disposed of by this common order.

3. The case of the petitioners is that they are the permanent resident of various Villages in Tirupattur Taluk, Vellore District, and Gengavalli Taluk and Attur Taluk of Salem District, in various acres of land. In the revenue records, the lands which are in possession of the petitioners are shown as Hill Poromboke and at earlier point of time,



the properties were irregular in shape, barren and uncultivable. The petitioners have spent huge amount for the heavy reclamation on the said properties and changed the nature of the lands into agricultural lands and cultivating the same regularly. Thereafter, they made representation to the authorities concerned, to issue patta for the lands which are under their possession. Further it is alleged that in fact in the year 2006, the Central Government was pleased to pass an enactment namely 'The Scheduled Caste and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in and by which the rights of the petitioners and other similarly placed traditional dwellers are protected and hence, they made series of representation to all the respondents to issue patta for the lands in question, however till date no response is forthcoming. Hence, the petitioners are constrained to approach this Court by filing this writ petition.

4. The learned counsel appearing for the petitioners submitted that it would suffice if this Court issues direction to the respondents to consider the petitioners' representation and pass appropriate orders.



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5. The learned Additional Government Pleader appearing for the respondents submitted that as per the Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, traditional forest dweller means the members of community of the scheduled tribes who primarily reside in for more than 25 years and who depend on the forest or forest lands for bona fide livelihood needs. However in the present case on hand, they are not entitled to claim benefit of the above said Act, in view of the fact that they are not traditional forest dwellers and they did not belong to scheduled tribe community, they merely made representation for issuance of patta for the lands in reserved forest, which cannot be considered by the respondents and hence prays for dismissal of these petitions.

6. This Court has carefully considered the rival submissions and also perused the materials available on record.



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7. Though the petitioners claim that they are in occupation of various Villages in Tirupattur Taluk, Vellore District, and Gengavalli Taluk and Attur Taluk of Salem District, on perusal of the revenue records reveal that the said lands are classified as reserved forest lands and in which the petitioners could not claim any right. Further a similar issue came up for consideration before this Court in ***WP.No.32704/2014 (P.Thangarasu Vs. the State of Tamil Nadu rep.by the Secretary to the Government, Revenue Department, Fort St.George, Chennai 600 009)*** and this Court vide order dated 01.03.2022 had dismissed the said writ petition and for better understanding, it is relevant to extract paragraphs 7 and 8 of the said order:

"7.It is well settled that the forest dwellers totally depend upon the forest produces for their livelihood. As stated by the petitioner, he cannot be said to be a forest dweller for the reason that he encroached the lands and converted them into cultivable one and was also paying charges to the Government. As per Section 2(c) of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest



Rights) Act, 2006, "forest dwelling Scheduled Tribe" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forest or forest lands for bona fide livelihood needs and includes the Schedule Tribes pastoralist communities. Section 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines "other traditional forest dweller" that any member or community who has for at least three generations prior to 13.12.2005 primarily resided in and who depend on the forest or forest land for bonafide livelihood needs?. The generation is explained as a period comprising of 25 years.

8.As per above definitions, either the person should be a permanent resident of the forest bonafidely depending on the forest produce for his livelihood or a traditional forest dweller, who lives for more than 75 years inside the forest. The petitioner does not satisfy the requirements either under Section 2(c) or 2(o) of Act, 2006 and he was not dependent on the forest produce and on the other hand, he converted the uncultivable lands into agricultural lands and he eke out his livelihood from the cultivation of agricultural lands. "



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8. From the above discussed decision, it is clear that unless the petitioners prove that they are a permanent resident of the forest and bonafidely depending on the forest produce for their livelihood or a traditional forest dweller, who lives for more than 75 years, inside the forest, they are not entitled for the benefit of the above said Act. In the present case on hand, the petitioners did not satisfy the requirement of the provisions of the said Act, in view of the fact that they claim that they are in possession from the year 1990, in that event, they will not satisfy the requirements of dwelling inside the forest for three generations which means for 75 years and therefore, the petitioners are not entitled to claim any right over the forest land. Hence, these writ petitions are liable to be dismissed.

9. For the reasons aforesaid, these writ petitions are dismissed. No costs.

16.11.2022

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M.DHANDAPANI,J.
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- WEB COPY To
- 1.The Executive Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.
 - 2.Assistant Engineer,
Public Works Department,
Water Spread Section,
Bhavani Sagar Dam Division,
Erode District.

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