



W.P. No.22235 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.22235 of 2022

I. Ganesan

... Petitioner

Vs.

1. The Chief Secretary to Government
Government of Tamil Nadu
Secretariat, Fort St.George,
Chennai 600 009.
2. The District Collector of Salem,
Salem.
3. The Forest Officer,
Yercaud, Salem.
4. The District Forest Officer,
Gandhi Road,
Salem - 636 007.
5. The District Revenue Officer,
The District Level Committee,
Salem Collectorate Office,
Salem.
6. The Special Tahsildar,
Adi Dravidar Welfare,
Salem

... Respondents



W.P. No.22235 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 14.02.2022 made in Na.Ka.No.11697 of 2021 F1 passed by the 4th respondent and to quash the same and consequently direct the 5th respondent to implement the order made in Na.Ka.No.7165/2017/A3 dated 14.11.2019 and issue Patta to the petitioner of Maramangalam Panchayat, Periyamathur Village, Yercaud Taluk, Salem District.

For Petitioner : Mr. T. Dhanasekaran
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the order dated 14.02.2022 made in Na.Ka.No.11697 of 2021 F1 passed by the 4th respondent and to quash the same and consequently direct the 5th respondent to implement the order made in Na.Ka.No.7165/2017/A3 dated 14.11.2019 and issue Patta to the petitioner of Maramangalam Panchayat, Periyamathur Village, Yercaud Taluk, Salem District.

2. The case of the petitioner is that he belongs to Schedule Tribe Community and he is cultivating the lands in Survey No.251, Yercaud and the only source of his income is from cultivation. When the respondents 2 and 3



W.P. No.22235 of 2022

tried to vacate him from the Survey No.251, Madhur Village, Yercaud taluk, Salem District, the petitioner had filed W.P.No.10704 of 1996 and on 11.08.2003 and pending the above writ petition, the petitioner had filed another W.P.No.6754 of 1998 for issuance of Patta for the above Survey Number and on 01.11.2001 this Court had passed certain direction. “The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was enacted and published in the Gazette of India on 02.01.2007, to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations who were entitled to get Patta as per the above said Act.

2.1. On the basis of the said Act, petitioner and some Village people sent number of representations to the Hon’ble Chief Minister of Tamil Nadu the last of which was on 23.09.2008, requesting to issue Patta. The office of the Hon’ble Chief Minister had forwarded the representation to the 2nd respondent herein, but the 2nd respondent has not taken any action on the representation. When the said Act was challenged, a Division Bench of this Court in M.P.No.1 of 2008 in W.P.No.4533 of 2008, while refused to grant interim injunction as sought for however issued certain interim directions.

Petitioner and the village people have submitted a representation as per the



W.P. No.22235 of 2022

Schedule Tribes and other Traditional Forest Dwellers (Recognition of Forest

WEB C Rights) Act 2006 on 10.03.2016 to the respondents 1 to 5 herein for issuance

of patta in Survey No.251 in Mathur Village, Yercaud Taluk, Salem district.

After acknowledging the same on 31.03.2016, the respondents have not taken

any action as per the Act, 2006. Thereafter the petitioner filed W.P.No.30501

of 2016 in which this Court passed order with certain directions on

01.09.2016. Till today the 3rd respondent has not directed the 5th respondent to

inspect and survey the forest land as per Section 3 of the Scheduled Tribes and

other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Petitioner once again was constrained to approach this Court by filing a

W.P.No.20498 of 2018 and this Court passed an order on 27.03.2019. In view

of the said order, the petitioner and other forest dwellers approached the 5th

respondent herein to issue patta. The 5th respondent herein is the competent

authority to issue Patta for forest dwellers.

2.2. Since no orders were passed the petitioner and others once

again filed W.P.No.820 of 2021 before this Court praying to direct the 5th

respondent to implement the order made in Na.Ka.No.7165/2017/A3 dated

14.11.2019 and issue patta in Survey No.251 in which this Court directed the

DRO to dispose of the representation vide order dated 23.02.2021. The



W.P. No.22235 of 2022

petitioner sent a notice dated 24.01.2022 through his Advocate to the respondents 3 to 5 enclosing the order of this Court dated 23.02.2021 made in W.P.No.820 of 2021 with a request to comply with the order. The 4th respondent herein viz., The District Forest Officer, Salem Forest Zone, Salem passed an order dated 14.02.2022 made in Na.Ka.No.11697/2021 F1 rejecting the claim of Patta as if there is no possibility for issuance of the same. Challenging the said order the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that inspite of repeated directions issued by this Court in the writ petitions filed by the petitioner, the respondents have not properly appreciated the materials placed as also taking into consideration the relevant provisions of Act, 2006 and had without proper application of mind rejected the claim of the petitioner for patta, which deserves to be interfered with by this Court.

4. On the above contentions this Court heard the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. It is evident from the record that the petitioner had approached this Court more than twice for issuance of patta and this Court in



W.P. No.22235 of 2022

W.P.No.30501/16 had directed the 4th respondent to consider the representation of the petitioner dated 10.03.2016. In response to the said direction, the present impugned order has come to be passed.

6. A perusal of the order impugned herein reveals that the 4th respondent has given a categorical finding that the area where the petitioner had sought for patta is a reserved forest and therefore patta cannot be granted. Further, the proforma produced by the Revenue Divisional Officer shows that the petitioner does not belong to Schedule Tribe Community and none of his blood relatives also belong to schedule tribe community. No records have been produced before the Revenue Divisional Officer to establish that the petitioner belongs to Schedule Tribe community. Even before this Court, no material has been filed to show that the petitioner belongs to schedule tribe community. Act, 2016 provides for issuance of patta only in respect of forest dwellers, who belong to schedule tribe community and it is the duty of the person claiming patta to establish that he belongs to schedule tribe community. Without proving that the petitioner belongs to schedule tribe community, seeking a direction to quash the order passed by the 4th respondent cannot be sustained. Further, the forest having been held to be a reserved forest, no patta could be granted in favour of any person, muchless the petitioner, under Act,



W.P. No.22235 of 2022

2006. In such view of the matter, no interference is warranted with the order passed by the 4th respondent and accordingly the said order is confirmed.

7. For the reasons aforesaid, this writ petition is dismissed. No costs.

30.08.2022

Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order
dpq

To

1. The Chief Secretary to Government
Government of Tamil Nadu

<https://www.mhc.tn.gov.in/judis>



W.P. No.22235 of 2022

Secretariat, Fort St.George,
Chennai 600 009.

WEB COPY

2. The District Collector of Salem,
Salem.
3. The Forest Officer,
Yercaud, Salem.
4. The District Forest Officer,
Gandhi Road,
Salem - 636 007.
5. The District Revenue Officer,
The District Level Committee,
Salem Collectorate Office,
Salem.
6. The Special Tahsildar,
Adi Dravidar Welfare,
Salem

M.DHANDAPANI, J.

dpq



WEB COPY



W.P. No.22235 of 2022

W.P. No.22235 of 2022

30.08.2022