



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.26054 of 2021 and W.M.P. No.27497 of 2021

A.Adisekaran

... Petitioner

vs

- 1.The State of Tamilnadu,
rep. by its Secretary to Government,
Environment and Forest Department,
Fort St. George,
Chennai.
- 2.The Principal Chief Conservator of Forest and
Head of Forest Force,
Panagal Building,
Saidapet, Chennai.
- 3.The District Collector,
District Collectorate,
Mayiladuthurai.
- 4.The Wildlife Warden,
Nagapattinam Division,
Collectorate Campus,
Nagapattinam.
- 5.The Forest Range Officer,
Sirkali Range,
Mayiladuthurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to forbear the respondents from interfering with the petitioner's peaceful possession and enjoyment of land in S.No.1/1 measuring 10 acres in Aalakkudi Village, Sirkali Taluk, Mayiladuthurai District pursuant to the Eviction Notice dated 08.01.2019 issued by the fifth respondent and permit the petitioner to continue the cultivation.



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For Petitioner : Ms.K.Jenitha

For Respondents: Mr.T.Arunkumar,
Additional Government Pleader (Forest)
for R1, 2, 4 & 5

Mr.K.V.Sajeevkumar,
Special Government Pleader for R3

ORDER

[Order of this Court was delivered by T.RAJA, J.]

Mr.A.Adisekaran, the petitioner herein has come to this Court seeking a writ of mandamus to forbear the respondents from interfering with his peaceful possession and enjoyment of land in S.No.1/1, measuring to the extent of 10 acres in Aalakkudi Village, Sirkali Taluk, Mayiladuthurai District pursuant to the Eviction Notice dated 08.01.2019 issued by the fifth respondent and permit him to continue the cultivation.

2.Learned counsel appearing for the petitioner submitted that the petitioner's father was an Ex-army man and he resided in Aalakkudi Village. While he was alive, he was in occupation of the above land in S.No.1/1, measuring to the extent of 10 acres in Aalakkudi Village. Thereafter, the petitioner has been cultivating the millets, like Ragi, Groundnut, Coconut trees and mango trees and also some vegetables. Since the petitioner and other families were in occupation of the land for more than three decades and they are depending on the forest land for their livelihood needs, the fifth respondent/Forest Range Officer has foisted a false criminal case in S.T.C. No.207 of 2006 against the petitioner and other 7 persons for the offence under Section 21(d)(e) of the Forest Act, 1882 on the allegation that they have damaged the Savukku Plantation and prevented the officials from doing their official duties and the said criminal case ended in acquittal. Thereafter, the petitioner and others created a pond for cultivating their lands and getting water by using diesel engine motors. When the petitioner's family, who are landless poor and uneducated, has been in continuous possession for more than 75 years, they sent representations dated 20.12.2017 and 28.12.2017 to the respondents to issue patta in their favour under the Scheduled Tribes and other Traditional Forest Dwellers Recognition of Forests Act. However, the third respondent by Proceedings Na.Ka.No.356/2018 sent a reply to one Sellathurai stating that the representations have to be submitted to the Grama Sabha under the Forest Rights Act. Thereafter, a representation dated 26.02.2018 has been sent to the Block Development Officer, Kollidam Union for issuance of patta. Based on the said



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representation, the Block Development Officer also inspected their lands and conducted an enquiry. Thereafter, the fifth respondent has issued an Eviction Notice under Section 68-A of the Forest Act, 1980 to remove the encroachment. Therefore, the petitioner is before this Court seeking the above relief.

3. Opposing the above prayer, learned Special Government Pleader appearing for the third respondent, placing before us a proceeding dated 28.07.2020, issued by the Tahsildar, Sirkali, submitted that the claim of the petitioner and others were found to be bogus.

4. When the petitioner and others were claiming that they are in continuous possession for more than 75 years in the above land, they are duty bound to produce the documents showing that they are in continuous occupation and enjoyment in the land for several years. Since the petitioner claims to be in possession of the land for more than three generations, namely for 75 years, he could have filed some documents to substantiate his possession and enjoyment in the land. Without even producing any single piece of document, he cannot claim that he is in possession and enjoyment of the land in question. Therefore, we are inclined to dismiss this petition. Accordingly, this writ petition stands dismissed. Consequently, W.M.P. No.27497 of 2021 stands closed. No Costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Secretary to Government,
Environment and Forest Department,
Fort St. George,
Chennai.
2. The Principal Chief Conservator of Forest and
Head of Forest Force,
Panagal Building,
Saidapet, Chennai.
3. The District Collector,
District Collectorate,
Mayiladuthurai.



4.The Wildlife Warden,
Nagapattinam Division,
Collectorate Campus,
Nagapattinam.

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5.The Forest Range Officer,
Sirkali Range,
Mayiladuthurai.

+1cc to M/s.A.Malath deva Periyam, Advocate, S.R.No.8162

+1cc to the Government Pleader, S.R.No.8654

+1cc to the Special Government Pleader, S.R.No.8110

W.P.No.26054 of 2021 and W.M.P. No.27497 of 2021

GP(CO)
SB(01/03/2022)