



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.06.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.13570 of 2011

and

M.P. (MD) No.2 of 2011

WEB COPY

1. N.Sellandi
2. Songu
3. Pichaiammal,
4. C.Madasami
5. D.Eswari
6. M.Periasamy
7. Selvaraj
8. S.Muthusamy
9. K.Vijaya
10. M.Mani
11. V.Raj
- 12.V.Jeevanandam
13. Chinnaamy
14. S.Jeevanandam
15. M.Samudrakani
16. S.Vanaraj
17. Murugan
18. P.Saraswathi
19. S.Selliah
20. Balusamy
21. P.Radhamani
22. P.Mahadevan
23. R.Mariappan
24. A.Rajendran
25. P.Jothibas
26. Periakaruppan
27. D.Murugan
28. C.Sellandi
29. Occhhukkalai
30. J.Yesudas
31. M.Lakshmi
32. D.Muthumariappan
33. Sivakarthikeyan
34. C.Rajeskumar
35. Gandhiammal
36. K.Krishnan
37. Ganesan
38. M.V.Kalimuthu
39. M.V.K.Jeeva
40. M.V.K.Balan

... Petitioners

Vs.



1. The Secretary to Government,
Forest Department,
Secretariat, Chennai.

2. Forest Settlement Tahsildar,
Andipatti Taluk,
Theni District.

3. The District Collector,
Theni District,
Theni.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Na.Ka.No.77 of 2011 dated 13.07.2011 issued by the second respondent to the respective petitioners and quash the same and consequently direct the third respondent to issue patta in favour of the petitioners herein in respect of lands enjoyed by them respectively in Old. S.No.280(part), Megamalai Village, Andipatti Taluk, Theni District.

For Petitioners : Mr.T.Antony Arulraj
for B.Prasanna Vinoth
For Respondents : Mr.P.Thilak Kumar
Government Pleader

ORDER

The present writ petition has been filed by 40 writ petitioners challenging the individual orders issued to them rejecting the request for patta in Survey No.280 in Megamalai village Andipatti Taluk, Theni District. The reason assigned in the said order is that under G.O.Ms. No.118, dated 09.09.2009, the said survey number has also been declared to be a reserve forest.

2. The learned counsel for the writ petitioner pointed out that at Page.141 of the said Government Order, a part of Survey No.280 for an extent of 99.44.5 hectares have been temporarily excluded from the purview of the reserve forest in view of the pendency of cases before various courts.

3. A perusal of the said Government Order indicates that as far as the present Survey No.280 is concerned for which the writ petitioners seek patta, the same is yet to be declared as a reserve forest. Hence, it is evident that the order passed by the second respondent herein stating that in view of G.O.Ms.No.118, the petitioners are not entitled to receive patta is not legally sustainable.



4. However, the learned counsel appearing for the respondents pointed out that though it is not a reserve forest, it is a forest area and the petitioners have encroached the said area and they are not entitled to patta.

5. The learned counsel for the respondents also pointed out that the said Survey No.280 has not been excluded in entirety, but only a part of the said survey number has been excluded in G.O.Ms.No.118. He further pointed out that, a part of the Survey No.280 has been excluded only temporarily due to pendency of cases before various courts. Hence, the petitioners would not be entitled to any patta for the encroached property inside the forest area.

6. A perusal of the impugned order indicates that except G.O.Ms.No.118 dated 09.09.2009, no other reason has been assigned by the second respondent for rejecting the request of the petitioners seeking patta. In view of the fact that as on today the said Survey Number has not been declared to be a reserve forest, the reason stated in the impugned order is not sustainable and hence the impugned orders are set aside.

7. The second respondent is directed to consider the request for patta afresh based upon the existing provisions under the Forest Act. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order after affording opportunities to the writ petitioners.

8. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

To

1. The Secretary to Government,
Forest Department,
Secretariat, Chennai.
2. Forest Settlement Tahsildar,
Andipatti Taluk,
Theni District.



3. The District Collector,
Theni District,
Theni.

+1 CC to M/s.SPL GP (SR-25400[F] dated 13/06/2022)

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Order made in
W.P. (MD) .No.13570 of 2011

10.06.2022

SB (CO)

GC (20.06.2022) 4P 5C