



W.A. (MD) No.133 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 06.12.2022

PRONOUNCED ON : 14.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD).No.133 of 2022 and
CMP(MD).Nos.1303 & 1304 of 2022**

P.Gopi

...Appellant/Petitioner

Vs

**1.The District Forest Officer
Velunachiar Compound
Dindigul District
Dindigul**

**2.The Forest Range Officer
Sirumalai Pudur
Dindigul District
Dindigul**

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 20.11.2019 passed in WP(MD).No.22133 of 2017.



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For Appellant : Mr.V.R.Venkatesan

For Respondents : Mr.A.Baskaran
Additional Government Pleader

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The writ petitioner is the appellant.

2.The present writ appeal has been filed challenging an order of the learned Single Judge who had confirmed the order passed by the first respondent herein under which the petitioner was to directed to approach the Hill Area Committee seeking previous permission of the said Committee for cutting and removing of the trees in Survey No.753/1B, Sirumalai Village, Dindigul District.

3.According to the appellant, he and his wife had purchased an extent of 65 acres and 7 cents in the above said survey number from one Ponnambala Nadar under a registered sale deed dated 06.12.1999. The said survey number has been declared as Ryoti land by an order of this Court in W.P.No.3000 of 1997 dated 22.02.1980 and W.P.No.4139 of 1980, dated 09.09.1986. The



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Special Commissioner and Secretary to Government (Forest and Fisheries Department) by his communication dated 01.09.1987 has also declared that the said survey number is a Ryoti land.

4.The learned counsel for the appellant/petitioner had contended that the Government of Tamil Nadu had issued G.O.Ms.No.15, Environment and Forests Department dated 04.02.2010 declaring certain survey numbers as reserved forest in Sirumalai West Forest Block. In the said Government Order, the survey number in dispute, namely Survey No. 753/1 or 753/1B is not included. Hence, it is clear that the above said survey numbers are not forest land. The learned counsel had further contended that when the lands in dispute are not forest lands, Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955 (Tamil Nadu Act XVII of 1955) is not applicable to him and hence, the order passed by the first respondent herein directing the petitioner to approach the Hill Area Committee seeking their previous permission for cutting and removing of the trees is not applicable to him.

5.The learned counsel for the appellant/petitioner had further contended that G.O.Ms.No.334, Environment and Forests Department dated 16.11.1998 is



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not applicable to him since it is a Ryoti land and inclusion of Sirumalai as hill station by the State Government would not take away the rights of the writ petitioner to cut and remove the trees from his patta land. The only legal obligation on the part of the writ petitioner is to obtain Form-II permit under Tamil Nadu Timber Transit Rules, 1968. The said Form-II is only for movement of timber and hence, the prior permission for cutting and removing the trees under Tamil Nadu Act XVII of 1955 is not applicable to him.

6.The learned counsel had further contended that the learned Single Judge has not properly appreciated the difference between Tamil Nadu Timber Transit Rules, 1968 and Tamil Nadu Act XVII of 1955 and has erroneously arrived at a decision that the petitioner has to obtain prior permission from the authorities under Tamil Nadu Act XVII of 1955. Since G.O.Ms.No.334, Environment and Forests Department dated 16.11.1998 does not include the private patta lands of the petitioner, the question of challenging the same does not arise. Hence, he prayed for allowing the writ appeal.

7.Per contra, the learned Additional Government Pleader appearing for the respondents had contended that Tamil Nadu Act XVII of 1955 is applicable



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to the petitioner's case. Even assuming that Survey No.753/1B is a private patta land, even then the previous permission of the authorities are mandatory under the said Act. The orders passed in W.P.No.3000 of 1977 and W.P.No.4139 of 1980 will not come to rescue of the petitioner, in view of the fact that those judgements would only relate to the ownership of the survey number in dispute.

8.The learned Additional Government Pleader had further contended that after orders were passed in those writ petitions in the year 1980 and 1986, G.O.Ms.No.334, Environment and Forests Department, dated 16.11.1998 was passed including the Sirumalai Village by way of amendment under Tamil Nadu Act XVII of 1955. Hence, the petitioner can no longer rely upon the orders of the year 1980 and 1986. Hence, he prayed for sustaining the order passed by the learned Single Judge.

9.We have given anxious consideration to the submissions made on either side and perused the records.

10.The core contention of the appellant is that Survey No.753/1B is a private patta land and hence, there cannot be any regulation on the part of the



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Government in cutting and removing the trees from his patta land. According to the appellant's counsel, the appellant is expected to get only a Form-II permit under Tamil Nadu Timber Transit Rules, 1968. Apart from that no regulation is available as against the appellant.

11.As rightly contended by the learned Additional Government Pleader appearing for the respondents, the orders of this Court in W.P.No.3000 of 1977 and W.P.No.4139 of 1980 have been passed in the year 1980 and 1986 respectively. The order of the Secretary to Government (Forest and Fisheries) Department is dated 01.09.1987. Only thereafter, by way of amendment under G.O.Ms.No.334 Environment and Forests Department, dated 16.11.1998, Sirumalai has been included in the schedule of Tamil Nadu Act XVII of 1955. Hence, the petitioner cannot rely upon the orders of this Court or the communication of the Secretary to Government which are prior to G.O.Ms.334 dated 16.11.1998.

12.The appellant herein had relied upon G.O.Ms.No.15, Environment and Forests Department, dated 04.02.2010 to contend that when a portion of Sirumalai is declared as a reserved forest, survey number is dispute has not been



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included. A perusal of the said G.O. discloses that the present survey number has not been declared as a reserved forest. However, whether that will empower the appellant/writ petitioner to cut and remove the trees in a hill area is a question that requires to be answered.

13.A careful scrutiny of Tamil Nadu Act XVII of 1955 discloses that it applies to all hill areas in the State of Tamil Nadu specified in the schedule. There is no dispute that Sirumalai has been included in the schedule with effect from 16.11.1998 under G.O.Ms.No.334. As per Section 3 of the said Act, no person shall be entitled to cut and remove the trees without previous permission of the Hill Area Committee which is constituted under Section 2-A of the said Act. Form-I annexed to the Tamil Nadu Hill Areas (Preservation of Trees) Rules, 1957 clearly indicates that the person who is making an application under Section 3(1) of Tamil Nadu Act XVII of 1955 has to place records relating to proof of ownership of the trees, in case if they are lessees. Therefore, it is clear that unless, proof of ownership of the trees or the land in question is placed before the authorities, the concerned person will not be entitled to get previous permission of the authorities.



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14.A combined reading of Section 3(1) of the Act and the Rules thereunder will clearly disclose that Tamil Nadu Act XVII of 1955 is also applicable to the trees located in the private patta lands. Therefore, the contention of the appellant that Survey No.753/1B, being a private patta land is not under an obligation to seek the previous permission of the Hill Area Committee is not legally sustainable.

15.The learned Single Judge after detailed discussion has arrived at a finding that the appellant/petitioner has to obtain permission from the concerned authorities under Tamil Nadu Act XVII of 1955. The learned Single Judge had also granted liberty to the petitioner to challenge G.O.Ms.No.334, Environment and Forests Department dated 16.11.1998, if he feels that his land would not fall under the purview of the Act. The appellant/petitioner has not chosen to challenge the said G.O. under which Sirumalai Hill was included in the schedule of Tamil Nadu Act XVII of 1955.

16.In view of the above said deliberations, we do not find any illegality or infirmity in the order passed by the learned Single Judge. No grounds have been made out by the appellant warranting interference in the order of the learned



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Single Judge. The order impugned in the writ petition is confirmed and the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(D.K.K.J.,)

(R.V.J.,)

14 .12.2022

Index :yes
Internet :yes
msa

To

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Pre-delivery Judgment made in
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