



WEB COPY

W.P(MD).No.12542 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2022

CORAM

**THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR**

W.P(MD).No.12542 of 2022

and

W.M.P(MD).No.8878 of 2022

M.Raveendran

... Petitioner

**Vs.**

District Forest Committee Kanyakumari District,  
Represented by  
The District Collector/Chairman District Forest  
Committee Kanyakumari District,  
At Nagercoil,  
Kanyakumari District.

...Respondent

**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 on the file of the respondent pertaining to its proceeding in Moo.Mu. (M1)/14425/2021 Mu.Va.No.1479, dated 23.03.2022 and to quash the same and consequently, direct the respondent to permit the petitioner to cut and remove 17 matured teak wood trees situated in Survey No.593/2 of Suroldu Village, Thiruvattar Taluk, Kanyakumari District so as to enable the petitioner to plant more saplings in the patta land of the petitioner.

For Petitioner : Mr.S.C.Herold Singh  
For Respondent : Mr.R.Suresh Kumar  
Additional Government Pleader

**ORDER**

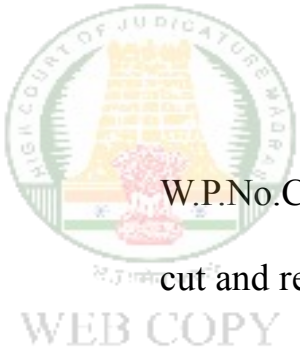
The petitioner is the owner of the property comprised in Survey No.593/2, Surlodu Village, Thiruvattar Taluk, Kanyakumari District measuring 27.49.50 acres. The petitioner purchased 22 acres of property by a sale deed, dated 02.08.2006 and the same was registered as Document No.1766 of 2006 and remaining 7 acres of property was purchased from one Mohammed Rabi for valid consideration by a sale deed and the same was registered as Document No.2438 of 2009. In the said property, petitioner planted commercial crops such as plantain, pine apple etc. Originally, the property in Survey No.593/2 measuring 68.21.0 hectares was in the name of OMS Church Bishop, during 1980, the said property was classified as Private Forest Land by publishing in the Kanyakumari District Gazette Vide Va.No. 231.

2. On 20.08.2015, the petitioner made an application to the first respondent to permit him to cut and remove 3075 age old rubber trees available in the said property. Considering the request made by the petitioner, the respondent in its proceedings in Na.Ka.No.Th/10289/2014, dated 08.01.2015 permitted the petitioner to cut down 3075 age old rubber trees with certain conditions. The wild animals often breach into the petitioner's property and damaging the crops planted over there and the petitioner sustains huge loss due to the same.



3. The petitioner submits that there are 17 teak wood trees available which were planted by petitioner's vendors in a row bordering the petitioner's property to earmark and to identify the property. Now, the teak trees are fully grown and the petitioner intends to cut the teak trees for which he gave an application on 15.12.2021. The Executive Engineer, Agriculture Department after conducting detailed enquiry by its proceedings in Na.Ka.No.1143/2021, dated 18.08.2021 recommended that removing those teak trees will not cause any soil erosion or landslide. Thereafter, the Thasildar by its proceedings in Na.Ka.No.A2/893/2021 dated 18.08.2021 and 22.09.2021 categorically stated that the property in Survey No.593/2 is the patta land of the petitioner and there is no encumbrance over the said property.

4. The petitioner sent a representation on 15.12.2021 to the District Forest Committee headed by District Collector which consists of forest, revenue and other officials. In his representation, he sought permission to cut and remove 17 age old teak trees for timber. On referring to the petitioner's representation, the aforesaid letter, dated 21.01.2022, Executive Engineer, Agricultural Department in its proceedings, dated 18.08.2021, Thasildar in its letter, dated 18.08.2021 and 22.09.2021, the District Forest Committee in its proceedings dated 24.02.2022 had deliberated the issue and thereafter, referring to the Apex Court judgment in W.PNo.2020 of 2015 and



W.P.No.Civil No.171/96 stated that naturally grown teak trees could not be cut and removed.

5. The President, District Forest Committee referring to the report of the Executive Officer, Agricultural Department and the revenue officials proceedings ought to have seen that these 17 teak trees are planted and not naturally and spontaneously grown trees. Hence, rejecting the District Forest Officer's report, dated 24.01.2022 issue appropriate orders based on the Executive Engineer, Agricultural Department in its report stated that 17 teak trees are found and they can be permitted to cut down and due of which, there would be no landslide or soil erosion. In the event of removing 17 teak trees alternatively sufficient number of plants to be planted by the petitioner. Further, the plantation of trees noway affected the waterway path to the stream.

6. The Thasildar conducted enquiry and found that 7 acres of land belongs to the petitioner in Patta No.1052. The petitioner purchased 22 acres of land in the year 2009 is also confirmed. There are variations with regard to the number of teak wood trees available in the area and the request given by the petitioner recorded. Further, the District Forest Committee under Section 31 A of Tamil Nadu Preservation of Private Forest Act, 1949 rejected the



permission to cut down the fully grown teak trees. Hence this writ petition filed.

7. The petitioner on specific query with regard to the place, in which the teak trees are planted to show whether it is planted or spontaneously grown in a row adjoining boundary to the estate. The petitioner produced photographs, which shows that the trees are planted and not spontaneously grown.

8. The learned Additional Government Pleader for the respondents produced photographs and filed counter. From the counter, it is stated that the teak trees are age old. In private forest area only cultivated trees are permitted to be felled. Naturally grown trees are not permitted to be cut in virtue of the Judgment of Hon'ble Supreme Court of India in **T.N.Godavarman Thirumulkpad Vs Union of India and others** in W.P.No.202/1995, dated 12.12.1996, wherein, there will be a complete ban on felling of trees in all forest areas. However, same will not apply for the following trees:

- (a) Trees which have been planted and grown, and are not of spontaneous growth,
- (b) are in areas which were not forests earlier, but were cleaned for any reason.



9. He further submitted that the petitioner was earlier permitted to remove the rubber trees alone, which were planted by the petitioner. During the inspection of the District Forest Officer, who is a member in District Forest Committee found that the Teak trees which are now to be cut are naturally grown. It is also important to be noted that this estate is located deep inside sanctuary, not having proper road connectivity upto 2 kilometres, the estate staffs use forest road to access the estate. The Executive Officer, Agriculture and soil conservation, who is a member in District Forest Committee cannot decide whether the trees are naturally grown or not.

10. This Court in the case of **Kanyakumari District Planters Vs The State of Tamil Nadu**, by an order, dated 05.04.2002 held that “these estates not only contained rubber trees, but also other miscellaneous trees like rosewood, teak, aini,marudam, thomba etc. it is further explained that to keep the ecological balance that the tree cover should be 33% of the total extent of the land in a country or state”. These private forests were located deep inside Kanyakumari Wildlife Sanctuary and the trees sought for felling by the petitioner were found to be grown in the rocky patches, by which it can be inferred that they are naturally grown trees through seed dispersal. Hence, in order to save the ecological balance of these pristine landscape and with due respect to the order of the Hon'ble Supreme Court of India in



**T.N.Godavarman Thirumulkpad Vs Union of India and others**, these trees were not permitted to fell. The learned Additional Government Pleader produced two photographs, one showing a single teak tree and a wide photo from which, nothing can be identified.

11. Considering the submission and perusal of the material, it is seen that the petitioner purchasing a property inside the private forest area is not in dispute. The petitioner's land was inspected and report was given by the Thasildar with regard to the ownership of the property. The Executive Engineer, Agricultural Department also given a report. Both the reports are in favour of the petitioner. The District Forest Officer in his report state that the trees are naturally grown. The photographs produced by the learned Additional Government Pleader for the respondent could not confirm the same. On the other hand, the photographs produced by the learned counsel for the petitioner shows that the teak trees are planted in row and it is found in the margin of the petitioner's property. But this Court with the available materials cannot decide these factual aspects. Further, it is seen that the appeal provision provided under Section 4 of Tamil Nadu Preservation of Private Forest Act, 1949 is that any person aggrieved by an order under Clause (a) of Sub Section (1) of Section 3 or under Sub Section (2) to file an appeal within two months of the receipt of such order in writing to the Government. The



impugned order passed on 31.03.2022. Now, the petitioner approached this Court, two months time lapsed. The petitioner apprehension is that the petitioner's appeal would not be entertained for the reason of delay.

12. In view of the same, the delay any occurred is condoned, the petitioner is directed to file an appeal along with the copy of the order within a period of two weeks from the date of receipt of the order. The Appellate Authority/Government is directed to consider the petitioner's appeal and dispose of the same within a period of two months thereafter without delay, ofcourse after giving petitioner personal hearing, permit petitioner to submit documents and make his submissions, thereafter the authority to pass appropriate orders.

13. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**18.07.2022**

Index : Yes / No  
Internet : Yes/ No  
sn



W.P(MD).No.12542 of 202



To

WEB COPY

The District Collector/Chairman District Forest  
Committee Kanyakumari District,  
District Forest Committee Kanyakumari District,  
At Nagercoil,  
Kanyakumari District.



WEB COPY



W.P(MD).No.12542 of 202

**M.NIRMAL KUMAR, J.**

sn

W.P(MD).No.12542 of 2022

18.07.2022