



W.P(MD)No.16611 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD)No.16611 of 2022 and
W.M.P(MD)Nos.12024 & 12025 of 2022

N.Meenakshi

... Petitioner

Vs.

1.State Represented by,
Its Additional Chief Secretary to Government,
Environment Climate Change and Forest Department,
Fort St.George,
Chennai.

2.The District Collector,
O/o.District Collectorate,
Ramanathapuram,
Ramanathapuram District.

3.The District Forest Officer,
Wild Life Warden,
Gulf of Mannar Marine National Part,
Opp. To I.T.I.,
Mandapam Road,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned Gazette Notification in GO Ms. No.62 Environment and Forests (FR14) dated 09.06.2016 published in the State Gazette No.36 dated 07.09.2016 on the file of the respondent No.1 and quash the same as illegal.



W.P(MD)No.16611 of 2022

For Petitioner : Mr.Lajapathi Roy.T
For Respondents : Mr.J.Ravindran,
Additional Advocate General
(Coordination)
Assisted by Mr.R.Suresh Kumar,
Additional Government Pleader

ORDER

Challenging the impugned Gazette Notification in G.O.Ms.No.62 Environment and Forests (FR14), dated 09.06.2016 declares the survey Nos.644 & 656 that it is proposed to constitute the lands as Reserved Forest and also appoints the Special Tahsildar (Forest Settlement), Sivagangai, *ex-officio*, to be the Forest Settlement Officer, to exercise the power under clause (c), this Writ Petition has been filed.

2.The contention of the learned counsel for the petitioner is that the petitioner and one Vijaya Kumar had purchased 50 cents of land each in survey Nos.644 and 655, Pamban Village, Ramaeswaram Taluk, Ramanathapuram District. After purchase of the said land, the petitioner is in possession and enjoyment till date. This being so, G.O.Ms.No.62 Environment and Forests (FR14), dated 09.06.2016 was published in the



W.P(MD)No.16611 of 2022

State Gazette No.36, dated 07.09.2016 declaring the survey Nos.644 & 656 as Reserved Forest and also appoints the Special Tahsildar (Forest Settlement), Sivagangai, *ex-officio*, to be the Forest Settlement Officer, to exercise the power under clause (c).

3.He further contended that the 2nd respondent in his communication in Na.Ka.No.E4/4594/2011, dated 04.06.2011 gave a report to the 3rd respondent, wherein, the particulars with regard to survey Nos.644 & 655 have been given. In the report, the 2nd respondent recorded that one Arumugam Konar, son of Muthu Konar has filed a civil suit in O.S.No.35 of 1988, on the file of the District Munsif Court, Ramanathapuram claiming 10 acres in survey No.644/1. Thereafter, the suit in O.S.No.35 of 1988 was ended in favour of the said Arumuga Konar, against which, the Government has filed an appeal in A.S.No.86 of 1998 and the same was dismissed on 12.09.1994, against which, the Forest Department did not file any further appeal. Thereafter, the legal heirs of Arumuga Konar after the civil Court order sought patta from the concerned officials. In survey No.644/2, St.Marry Matriculation School occupied a portion of land, adjoining the same, coconut grove is



W.P(MD)No.16611 of 2022

available. There is also a quarters and guest house of the Forest Department. In survey No.644/7, above 75 fishermen families have been living in thatched and tiled houses, all of them possess ration card, fishermen identity card. Further, there is an Iyyappan Temple and Mosque available. The Fishermen made representations seeking patta and for construction of Tsunami houses. Further, there is large extent of coconut groves consisting around 400 trees, there is also a Forest Department nursery. In view of the above, the removal of encroaches from the above said survey numbers would be of great difficulty leading to law and order issues. Hence, the 2nd respondent, by his report, recommended exemption of the lands occupied by inhabitants therein, which was not considered by the Forest Department. Hence, the 1st respondent had passed the impugned Government Order, which is under challenge.

4.The learned Additional Government Pleader appearing for the respondents submitted that following the Tamil Nadu Forest Act, 1882, the 1st respondent passed G.O.Ms.No.62, Environment and Forests (FR14) on 09.06.2016. Section 3 of the Tamil Nadu Forest Act, 1882,



W.P(MD)No.16611 of 2022

WEB COPY

gives power to constitute any land at the disposal of the Government a Reserved Forest in the prescribed manner. As per Section 4 of the Act, a notification to be issued by the Government whenever the Government proposed to constitute any land a reserved forest and the notification shall be published in official gazette specifying the situation and limits of such land, declaring that it is proposed to constitute such land a reserved forest and appointing an officer to determine the existence, nature and extent of any rights claimed by any person in or over any land comprised within such limits. Normally, an Officer appointed under clause (c) of this Section shall be a person other than the Forest Officer, but the Forest Officer is appointed by the Government to attend enquiry on behalf of the Government. In this case, Section 4 of the Act has been initiated and notification has been issued, wherein the survey number, extent and boundaries are all normally mentioned.

5.He further submitted that in the Government Order, Thangachimadam has been named as Forest, total area 76.86.0 Hectares survey Nos.644/1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 12 and 656/2, 3, 4, 5, 7 & 9 declared as Reserved Forest. Further, the Tahsildar (Forest Settlement), Sivagangai has been made as *ex-officio* Forest Settlement Officer to



W.P(MD)No.16611 of 2022

WEB COPY

exercise the power under clause (c) of Section 4 of the Act. Further, the District Forest Officer, Ramanathauram Division, Ramanathapuram has been declared *ex-officio* to attend enquiry on behalf of the Government. Further, the proclamation by the Forest Settlement Officer under Section 6 shall be published in the official gazette of the District and at the Headquarters of each Taluk in which any portion of the land included in such notification is situate, and in every town and village and its neighborhood of such land. Thus, the notification has been issued following Section 4 of the Act. If at all the petitioner is aggrieved, she has to approach the Settlement Officer or file an appeal against the order of the Settlement Officer. Petitioner cannot straightaway approach this Court, by way of Writ Petition.

6.This Court considered the rival submissions and perused the materials available on record.

7.In this case, the notification has been issued and thereafter, several procedures are contemplated. Further, the Reserved Forest now declared as Sanctuary. The Forest Department if it considers any area is



W.P(MD)No.16611 of 2022

WEB COPY

of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment, can issue a notification. In this case, Pambam area is an important ecological area wherein endangered species are available, to protect the same, the Forest Department has taken such steps. Admittedly, the petitioner is relying upon the report given by the then Collector of Ramanathapuram about the encroachers and occupiers in the Government land. If the petitioner has any legal right over the property, she has legal remedy under the Act.

8.In view of the above, the petitioner is directed to give a representation to the concerned respondent and also produce materials in support of her contention. If any adverse order is passed, there is an appeal provision under the Act. Without exhausting the same, this petition cannot be entertained and the same is liable to be dismissed and, is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Internet : Yes / No
Index : Yes / No
vv2

18.08.2022



W.P(MD)No.16611 of 2022

To
WEB COPY

- 1.The Additional Chief Secretary to Government,
Environment Climate Change and Forest Department,
Fort St.George,
Chennai.
- 2.The District Collector,
O/o.District Collectorate,
Ramanathapuram,
Ramanathapuram District.
- 3.The District Forest Officer,
Wild Life Warden,
Gulf of Mannar Marine National Part,
Opp. To I.T.I.,
Mandapam Road,
Ramanathapuram District.



WEB COPY



W.P(MD)No.16611 of 2022

M.NIRMAL KUMAR, J.

vv2

W.P(MD)No.16611 of 2022

18.08.2022