



W.P. (MD) No. 27866 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 27866 of 2022

S.Yesudhas

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The District Forest Officer,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issue of Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent pertaining to its order bearing Na.Ka.No.Va1/5341/2022, dated 08.07.2022 and quash the same and consequently directing the respondents to grant permission to slaughter the rubber trees and other trees planted by us and standing at Re-survey No.602 of Therisanamcope Village, Thovalai Taluk, Kanyakumari District.

For Petitioner

: Mr. S.C.Herold Singh



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For R1 & R2

: Mr. S.R.A.Ramachandran
Additional Government Pleader

ORDER

Heard Mr. S.C.Herold Singh, Learned Counsel for the Petitioner, Mr. S.R.A.Ramachandran, Learned Additional Government Pleader for the Respondents and perused the materials placed on record apart from the pleadings of the parties.

2. The Petitioner, who had claimed ownership of the property in old Survey No. 2709 and new Survey No. 602 of Tharisanmcope Village, had filed the suit in O.S. No. 323 of 2001 before the Sub Court, Nagercoil seeking declaration of possessory title and injunction against the State of Tamil Nadu and the officials of the Forest Department, which was transferred as O.S. No. 8 of 2008 to the file of the Special Court for Forest Offence Cases, Nagercoil and dismissed by judgment and decree dated 17.07.2008 and confirmed in appeal by judgment and decree dated 16.03.2018 in A.S. No. 36 of 2008 passed by the District Court, Kanyakumari District at Nagercoil and further by this Court by judgment and



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decree dated 26.08.2019 in S.A. (MD) No. 400 of 2018, which has attained finality. Thereafter, the Petitioner claims to have made a representation dated 24.02.2022 to cut rubber trees and other trees in the said property to the Second Respondent and this Court by order dated 05.04.2022 in W.P. (MD) No. 6176 of 2012 directed the Second Respondent to pass orders thereon within a period of eight weeks from the date of receipt of that order. Since the said representation has been rejected by Proceedings in Na. Ka. No. V1/5341/2022 dated 08.07.2022 passed by the Second Respondent, the Petitioner has assailed the same in this Writ Petition.

3. Learned Additional Government Pleader appearing for the Respondents has brought to notice that the Petitioner is not entitled to the usufructs from the tress in the property, which is forest land belonging to the State in terms of Section 68-A of the Tamil Nadu Forest Act, 1882, which is extracted below:-

“68-A. Any person unauthorisedly occupying any land in reserved forest or any land at the disposal of Government may be summarily evicted by an officer of Forest Department not below the rank of Forest Ranger or an officer of the Revenue Department not below



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the rank of Tahsildar, having jurisdiction over the area in which such land is situated, in such manner as may be prescribed and any crop or other produce raised on such land, shall be liable to forfeiture and any building or other construction erected or anything deposited thereon, shall also be liable to forfeiture. Forfeiture under this section, shall be adjudged by the officer referred to above and any property so forfeited, shall be disposed of in such manner as may be prescribed:

Provided that no eviction or adjudication under this section adversely affecting a person shall be made or adjudged, unless-

- (a) such person has been given a notice in such manner as may be prescribed; and*
- (b) the representation, if any, received in pursuance of such notice has been duly considered by such officer concerned."*

Inasmuch as the title to the property has been decided in favour of the State, the crops and produce raised on such land are liable for forfeiture, which would obviously mean that the Petitioner is not entitled to the benefits claimed in the



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WEB COPY representation made by him.

4. In that view of the matter, the Writ Petition, which does not deserve to be entertained, is dismissed. No costs.

21.12.2022

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Index : Yes/No

Note: Issue order copy by 27.01.2023.

To

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at Nagercoil.
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P.D. AUDIKESAVALU, J.

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