



W.P(MD)No.22453 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD)No.22453 of 2017 and
W.M.P(MD)Nos.18764 and 18765 of 2017 & 9923 of 2022

S.Ramapandi

... Petitioner

Vs.

1.The Principal Secretary to Government,
Environment and Forests Department,
Secretariat, Chennai -9.

2.The Principal Chief Conservator of Forest,
Chennai - 15.

3.The District Forest Officer,
Ramanathapuram District.

4.The Forest Range Officer,
Sayalkudi Forest Range,
Sayalkudi,
Ramanathapuram District.

5.The Forest Settlement Officer,
Sivagangai,
Sivagangai District.

6.The District Collector,
Ramanathapuram District.

... Respondents

[R6 impleaded vide order dated 18.08.2022,
made in W.M.P.(MD)No.9921 of 2022]



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PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the entire records pertaining to the impugned proceedings of the 1st respondent in G.O.Ms.No.145, Environment and Forest (FR14) dated 08.12.2016 and quash the same as unlawful.

For Petitioner : Mr.P.T.Ramesh Raja

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

ORDER

This Writ Petition is filed praying for issuance of a Writ of Certiorari, to call for the entire records pertaining to the impugned proceedings of the 1st respondent in G.O.Ms.No.145, Environment and Forest (FR14), dated 08.12.2016, and quash the same as unlawful.

2.The contention of the petitioner is that he came into occupation of a piece of land, measuring 0.0200 sq.metres, situated in Survey No. 582/1 of Oppilan Village, Kadaladi Taluk, Ramanathapuram District, around 40 years back. Initially, his father put up a small thatched house in the land occupied him. Thereafter, he altered the thatched house into



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filed house, residing there for the past 40 years along with his family. He obtained electricity service connection for his house in 354-003-542 from TANGEDCO, Ramnad. Further, his house assessed with House Tax by the Oppilan Panchayat, vide Assessment No.487 and door number allotted as 3/219-1. Till date he is remitting the House Tax in his name, without any default. While this being so, the 4th respondent issued a show cause Notice, dated 10.05.2017 stating that the land on which he occupying is a reserved forest, given 15 days time to show cause as to why he should not be evicted from the lands. The said notice was affixed on his house.

3.The learned counsel appearing for the petitioner would submit that at the time of occupation of the land by the petitioner, it was not declared as reserved forest, the lands vested only with the local authorities. Further, at the time of declaration, objections were not called for. The petitioner and other occupants unaware about the alleged conversion of the land into a reserved forest. No enquiry under section 6 of the Tamil Nadu Forest Act conducted and the petitioner not given any opportunity of hearing. Immediately, the petitioner approached the 4th



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respondent, submitted documents in support of his case, including house tax receipts, electricity receipts to the 4th respondent to show that the petitioner not an encroacher. The petitioner also made a representation to the 4th respondent in person.

4.The learned counsel for the petitioner would further submit that the 4th respondent, without considering the documents and the tax receipts issued by the competent authorities, vide his proceedings in Na.Ka.No.74/2017, passed the impugned order, dated 12.06.2017, directing the petitioner to evict the land within a period of 15 days, failing which, the building would be demolished. Therefore, the petitioner constrained to file a writ petition before this Court in W.P. (MD)No.18630 of 2017, challenging the eviction Notice. The 1st respondent therein viz., the District Forest Officer, Ramanathapuram, filed counter affidavit. In the counter, it is stated that the survey No. 582/1A of Oppillan Village declared as reserved forest, under section 16 of the Tamil Nadu Forest Act. He also produced the Government Order in G.O.Ms.No.145, Environment and Forest (FR.14), dated 18.12.2015, notifying the said area as a reserved forest, and published in the Tamil



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Nadu Gazette on 01.03.2017. Further the 1st respondent stated that Notification under Section 4 of the Tamil Nadu Forest Act published on 24.08.1977 and proclamation under Section 6 of Tamil Nadu Forest Act published on 29.09.1977.

5.It is further submitted that the this Court disposed the writ petition on 10.10.2017, with a direction to the Forest Range Officer, Sayalkudi Forest Range, Sayalkudi, Ramanathapuram, the 2nd respondent therein, to provide sufficient opportunity to the petitioner for producing document to substantiate his claim regarding the possession of the land, directed the petitioner to submit a detailed objection to the eviction notice, in turn, directed the 2nd respondent to consider the same within four weeks thereafter. This Court further directed the authorities not to take any coercive steps to remove the petitioner from the land till such time. As per the direction of this Court, the petitioner made objection to the 4th respondent on 03.11.2017, by raising factual and legal pleas. The said objection was received by the 4th respondent and it is pending before the 4th respondent.



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6.The learned counsel for the petitioner further submitted that the respondents without complying with the requirements under Sections 4 and 6 of the Tamil Nadu Forest Act, issued the impugned G.O., which is violative of the provision of the Tamil Nadu Forest Act. The entire area, which declared as reserved forest, is filled up only with prosopis-juliflora (Karuvela Trees) and no other trees or wild life are in existence. There is no extensive growth of trees attracting the definition of forest land in the said Oppillan Forest Land. Even the existing Karuvela trees banned by this Court. Except the Karuvela trees, no other trees available in the entire forest area. Therefore the very Notification of the Oppillan Land, as reserved forest, is not in consonance with the requirements for a forest land.

7.As per Section 17-A of Tamil Nadu Forest Act 1882, the Government can redefine the limits of reserved forest, if the notification under section 16 is defective. In the instant case, the lands declared as reserved forest without considering the fact that there are no



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requirements for forming a Forest land. So far the forest officials grown even a single tree on that land to convert the land into forest. The impugned notification, declaring the land, as reserve forest, without having any requirement to do so, is unwarranted and illegal. The 1st respondent ought to have issued fresh notification under section 4 of the Act, as the notification issued under Section 4 of in the year 1977 has not properly published. Hence, the learned counsel prays for quashing of the proceedings of the 1st respondent in G.O.Ms.No.145, Environment and Forest (FR14), dated 08.12.2016.

8.The respondents filed counter contending interalia that in G.O. (Ms) No.145, Environment and Forests (FR-14) Department, dated 08.12.2016, orders issued, declaring 337.26.5 Hectares of land in Oppilan Forest Block, Ramanathapuram District, as Reserved Forest, with effect from 06.09.2017. The said notification issued after duly following the provisions of the Tamil Nadu Forest Act, 1882. The Tamil Nadu Government Gazette Notification No.9 dated 01.03.2017 notified the said land as Reserved Forest under Section 16 of the Tamil Nadu Forest Act, 1882 with process of law, as provided under Sections 4 to 16



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of the Tamil Nadu Forest Act, 1882.

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9.It is submitted that the Oppilan Forest block was notified under Sections 4 of the Tamil Nadu Forest Act, 1882 vide G.O.Ms.No.450 Forests and Fisheries Department, dated 30.04.1977 and it was published in Ramanathapuram District Gazette on 24.08.1977, as per the procedure laid down. The then Forest Settlement Officer, Sivakasi, published the proclamation in the Ramanathapuram District Gazette No.13A, dated 29th September 1977, under section 6 of the Tamil Nadu Forest Act, 1882, clearly indicating the details, inviting the claims for any rights as prescribed under section 6 of the said Act. The Forest Settlement Officer also served proclamation notices clearly specifying the situation, limits, consequences fixing specific period for claiming right. Based on the said notification, the Forest Settlement Officer, Sivagangai, received 28 claims from the individuals. The Forest Settlement Officer, Sivagangai verified and scrutinized the claims, statements and evidence of individuals furnished by them in support of their claim. Out of 28 claims, 2 claims admitted, 1 claim treated as withdrawn and the remaining 25 claims not admitted. It is the option of the individuals to prefer appeal



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against unfavourable order. The petitioner did not prefer any claim before the Forest Settlement Officer due to the reason that he was not there at the time of proclamation made by the Forest Settlement Officer during 1977.

10.It is further submitted that after detailed enquiry during the settlement period, the Forest Settlement Officer sent proposal under Section 16 of Tamil Nadu Forest Act, 1882, to an extent of 337.26.5 Hectare of land. This was done after deducting the patta land, assessed waste land, other communal land such as cart track, burial ground etc. The Government may constitute any land at the disposal of the Government as Reserved Forest in the manner provided under Sections 4 to 16 of the Tamil Nadu Forest Act, 1882. The land in question is the land under the disposal of the Government at the time of issuing notification under section 4 of the Tamil Nadu Forest Act, 1882. There is no violation of any provisions of the Tamil Nadu Forest Act, 1882. The settlement proceedings are well drawn. The eligible persons already made their claims and objections or claiming their right before the Forest Settlement Officer. The Forest Settlement Officer received 28 claims



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from individuals and conducted enquiry. Against the order of the Forest Settlement Officer, aggrieved person ought to have filed appeal to the District Collector and District Court under Sections 10 to 14 of the Tamil Nadu Forest Act, 1882. Publication of notice under Section 16 is not all of a sudden, but 40 years taken to notify the land, following the procedures under Sections 4 to 16 of the Tamil Nadu Forest Act, 1882.

11.It is submitted that the Oppilan Reserved Land now notified as Reserved Forest under Section 16 of the Tamil Nadu Forest Act, 1882 in G.O.Ms No 145 Environment, and Forests Department, dated 08.12.2016, after completing all legal procedures under the provisions of the Tamil Nadu Forest Act, 1882. The land is attracting the provisions of the Forest (Conservation) Act, 1980 and such land cannot be used for any non-forestry purpose. It is submitted that para 2 of the proclamation made by the Forest Settlement Officer, Sivakasi, under section 6 of the Tamil Nadu Forest Act, 1882 published in the Ramanathapuram District Gazette No.13A, dated 29.09.1977, says that all rights in respect of which no claims are preferred within the above stated period will, after the lands have been declared by notification in the Tamil Nadu



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Government Gazette No. 9 dated 01.03.2017 under Section 16 of the Tamil Nadu Forest Act, 1882 to be a reserved forest, become extinguished. The present claim of the petitioner is not only highly belated and an afterthought but without locus standi, since he is not entitled to make claim as per the above said provision. The present litigant did not file his claim during enquiry and settlement period and therefore, at this belated stage, he do not have any right to question the notification issued under Section 16 of the Tamil Nadu Forest Act, 1882.

12.It is further submitted that the encroachment of petitioner cannot be regularized due to the reason that no patta can be granted in the forest land, as per the orders of the Hon'ble Supreme Court of India in IA No.418 in WP(C) No.202/95. The actions of the encroachers will defeat the very purpose of the Tamil Nadu Forest Act, 1882 itself. The encroachers are attempting to prolong the encroachment, not only to legitimize their illegal encroachment, but also to increase the encroachment and to destroy the forest as and when possible in a clandestine manner. As per the provisions of the Tamil Nadu Forest Act, 1882, the encroachers liable to be evicted by issuing a notice under



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Section 68-A of the above said Act, they also liable for prosecution.

13.It is also submitted that the 4th respondent issued an eviction notice to the petitioner vide his letter No.74/2017, dated 10.05.2017, under Section 68-A of the Tamil Nadu Forest Act, 1882 and provided opportunity of 15 days to the petitioner to submit his explanation as to why action could not be taken against him to evict himself from the encroached forest land in the Oppilan Forest Block. The 4th respondent directed the petitioner to leave the portion of the forest land encroached by him in the Oppilan Forest Block vide his proceedings letter No. 74/2017, dated 12.06.2017, after verification of the documents submitted by the petitioner on 24.05.2017. Since he petitioner refused to receive the orders passed by the 4th respondent on 12.06.2017, it was affixed at his door in the presence of the Village Administrative Officer concerned on 12.06.2017.

14.Aggrieved by the action of the 4th respondent, the petitioner approached this Court, filed WP (MD)No.18630 of 2017 to quash the orders of the 4th respondent in proceedings letter No. 74/2017, dated



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12.06.2017. This Court disposed the writ petition on 10.10.2017 with direction to the second Respondent therein to provide sufficient opportunity to the petitioner, namely one week time to produce all documents, which is in his possession to exhibit his claim in regard to the subject matter in issue and further, the Petitioner shall be called upon to submit his detailed remarks/objection to the impugned order of the second Respondent, dated 12.06.2017, within a period of two weeks thereafter. Further, directed second Respondent to hear the Petitioner in person, and to pass a reasoned speaking order on merits within a period of four weeks thereafter. Till such time, the Authorities directed not to take any coercive steps to remove the Petitioner from the land in question.

15. Pursuant to the direction of this Court, the 4th respondent sent notice, dated 10.01.2018, asking the petitioner to appear in-person in the Forest Range office, Sayalkudi Range, located in Keeranthai at Sayalkudi and to produce any other records on 18.1.2018. But the petitioner not responded to this notice. The petitioner given sufficient opportunity. Hence, the 4th respondent rejected the petitioner representation, served



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the final eviction proceedings bearing Na.Ka.No.74/2017, dated 27.1.2018 with a direction to evict himself before 15.2.2018 failing which, the encroachment in the Reserved Forest would be evicted and the belongings would be forfeited as per law.

16.The proclamation made by the Forest Settlement Officer, Sivakasi under section 6 of the Tamil Nadu Forest Act, 1882 published in the Ramanathapuram District Gazette No.13A dated 29.09.1977. Further, the final notification under section 16 of the above said Act declaring as Reserved Forests made in G.O. Ms. No. 145 Environment and Forests Department, dated 08.12.2016. Further, the 4th respondent passed order on 12.06.2017 asking the petitioner to evict the encroached area, in the Oppilan Forest Block, as the documents produced by the petitioner do not give any support to his claim regarding the forest land encroached by him. The petitioner encroached about 150 Sq.m extent of land in Oppilan Reserved Forest in Survey number 582/1A. The evidence produced by the petitioner viz., Electricity Service Connection, property tax etc., cannot be considered as evidence of ownership.



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17.It is further submitted that Oppilian Reserved Forests notified as Reserve Forest, under Section 16 of the Tamil Nadu Forest Act, 1882 vide G.O.Ms.No.145 Environment and Forests Department, dated 08.12.2016. The said notification issued after duly following the provisions of the Tamil Nadu Forest Act, 1882 as provided under Sections 4 to 16 of the Tamil Nadu Forest Act, 1882. The land in question was the land under the disposal of the Government at the time of issuing notification under section 4 of the Tamil Nadu Forest Act, 1882. The Oppilan Forest block was notified under Section 4 of the Tamil Nadu Forest Act 1882 vide G.O.Ms.No.450 Forests and Fisheries Department, dated 30.04.1977 and it was published in Ramanathapuram District procedure laid down. Gazette on 24.08.1977 as per the The then Forest Settlement Officer, Sivakasi published the proclamation in the Ramanathapuram District Gazette No. 13A dated 29 September 1977 under section 6 of the Tamil Nadu Forest Act, 1882. After completion of all legalities required under the relevant sections of the Tamilnadu Forest Act, 1882, the Oppilian Forest block has been notified as Reserved Forests under section 16 of the above said Act vide G.O. Ms. No. 145



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Environment and Forests Department dated 08.12.2016 and the said notification has been issued after duly following the provisions of the Tamil Nadu Forest Act, 1882 and notified in the Tamil Nadu Government Gazette Notification No.9 dated 01.03.2017 as Reserved Forest under Section 16 of the Tamil Nadu Forest Act, 1882 with effect from 06.09.2017.

18.The petitioner to place his claim before the Forest Settlement Officer, Sivakasi, who is vested with the powers to admit the claim under section 10 of the Tamilnadu Forest Act, 1882. After issuance of the notification under section 16 of the above said Act, he ought to vacate the encroached forest land since it is also attracting the provision of the Forest (Conservation) Act, 1980. The allegation made by the petitioner against the respondents are baseless and it has been made by him only in order to defend his occupation of the forest land illegally. In fact, flora species like Udaivelan, Panai, Usil, Seemai Karuvel, Nattu Karuvel, etc are available in this Reserved Forest Block. Likewise, animals like avian fauna such as Peacock, Parrot, Maina, Kuyil, Sparrow, Eagle and other animals like Spotted deer, Rabbit, Cobra snakes, Rat snakes, Viper



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snakes etc are also available in this Oppilian Forest Block.

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19.The principal aim of Forest Policy must be to ensure environmental stability and maintenance of ecological balance including atmospheric equilibrium which are vital for sustenance of all life forms, human, animal and plant. The care should also be taken to protect the existing vegetation and wild animals and their habitat should also be strengthened. Therefore eviction of the encroacher from the Forest land is inevitable and urgent need also. In fact, the land in question was the land under the disposal of the Government at the time of issuing notification under section 4 of the Tamil Nadu Forest Act, 1882. The Oppilan Forest block was notified under Section 4 of the Tamil Nadu Forest Act, 1882 vide G.O.Ms.No.450 Forests and Fisheries Department, dated 30.04.1977 and it was published in Ramanathapuram District Gazette on 24.08.1977 as per the procedure laid down. The then Forest Settlement Officer, Sivakasi published the proclamation in the Ramanathapuram District Gazette No. 13A dated 29 September 1977 under section 6 of the Tamil Nadu Forest Act, 1882. After completion of



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all legalities required under the relevant sections of the Tamilnadu Forest Act, 1882, the Oppilian Forest block has been notified as Reserved Forests under section 16 of the above said Act vide G.O. Ms. No. 145 Environment and Forests Department dated 08.12.2016 and the said notification issued after duly following the provisions of the Tamil Nadu Forest Act, 1882 and notified in the Tamil Nadu Government Gazette Notification No.9 dated 01.03.2017 as Reserved Forest under Section 16 of the Tamil Nadu Forest Act, 1882 with effect from 06.09.2017.

20.It is a very long and lengthy processes started during the year, 1977 and ended during 2016 as elaborated above. Hence it is not a sudden one and there is no possible to commit any error. Therefore, the allegation of the petitioner, that 1st respondent is erred in issuing the notification declaring the lands as Reserved Forests, is purely based on imaginary and fictitious so as to conceal his failure to establish his claim before the Forest Settlement Officer, Sivakasi after proclamation made by the Forest Settlement Officer, Sivakasi under section 6 of the Tamilnadu Forest Act, 1882 as discussed above. The notifications under section 4 and 6 of the Tamilnadu Forest Act, 1882 were also published in the



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Ramanathapuram District Gazette. It is also noted herein that 28 claims were received and 2 claims were admitted. The remaining claims were not admitted. It shows that the processes of notification of Oppilan Forest Block as Reserved Forests were carried out according to the mandatory provisions prescribed in the Tamilnadu Forest Act, 1882. allegation made by the petitioner is totally false and baseless.

21.I have heard the learned counsels appearing on either side and perused the materials available on record.

22.It is seen that earlier the petitioner approached this Court in W.P(MD)No.18630 of 2017 to quash the proceedings in Na.Ka.No.74 of 2017, dated 12.06.2017 and consequently direct the respondents therein not to evict the petitioner and his family members from his house bearing No.3/219-1, Oppilan Post, Oppilan Village, Kadaladi Taluk, Ramanathapuram District. This Court, by order, dated 10.10.2017 considered the contention of the petitioner that the petitioner has been residing in the above said address for the past forty years along with his family and obtained electricity service connection and his house has been



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assessed for house tax by Oppilan panchayat. The main ground assailed by the petitioner is that at the time of his possession and occupation of the land, the said place was not declared as forest land.

23.The Forest Officials produced documents to show that the procedure under Section 4 to 6 of Tamil Nadu Forest Act, 1882 have been followed. The petitioner was given adequate opportunity, but failed to respond. The petitioner was directed to submit his remarks/objections to the impugned eviction notice, dated 12.06.2017. Thereafter, the petitioner sent his representation, dated 03.11.2017 making similar plea as made earlier. The representation of the petitioner is that his appeal to be considered sympathetically with humanitarian considering the fact that the petitioner and his family members have been residing there more than forty years with meager income and they have no means for change of residence and livelihood.

24.The declaration of the land as Reserved Forest, has been done following the procedure contemplated under the Tamil Nadu Forest Act, 1882. The Forest Officials on considering the petitioner's representation



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found that the petitioner to be an occupier of the forest land having no legal right, ordered eviction. It is for the Forest Officials or the District Collector to consider the petitioner's representation sympathetically for any entitlement. The petitioner, as a matter of right, cannot seek exemption of his occupation in Reserved Forest.

25.In view of the above, G.O.Ms.No.145, Environment and Forest (FR14), dated 08.12.2016 having been passed following the statutory conditions. Hence, this Court is not inclined to interfere with the same.

26.This Writ Petition lacks merit for consideration and the same is dismissed, accordingly. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Speaking Order / Non-Speaking Order

Internet : Yes / No

Index : Yes / No

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To
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- 1.The Principal Secretary to Government,
Environment and Forests Department,
Secretariat, Chennai -9.
- 2.The Principal Chief Conservator of Forest,
Chennai - 15.
- 3.The District Forest Officer,
Ramanathapuram District.
- 4.The Forest Range Officer,
Sayalkudi Forest Range,
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- 5.The Forest Settlement Officer,
Sivagangai,
Sivagangai District.
- 6.The District Collector,
Ramanathapuram District.



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