



W.P. No. 29658 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

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

W.P. No. 29658 of 2023

and

W.M.P. No. 29265 of 2023

Egambaram

... Petitioner

-VS-

1. Deputy Conservator of Forest,
Department of Forest and Wildlife,
Government of Puducherry,
Forest Campus,
Mullaiyagam,
Mudaliarpet,
Puducherry.

2. K. Paramassivane

3. M.Ganesan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to impugned order vide O.R.No.29/DF&WL/2023-24/498 dated 25.09.2023 issued by the First Respondent and quash the same.



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For Petitioner : Mr. Prakash Adiapadam
For Respondents : Mr. Ramasamy Meiyappan (for R1)
Mr. C.K.Chandrasekar
Legal Aid Counsel (for R2)
Mr. K.Sasindran (for R3)

ORDER

When the matter was taken up for admission in the morning session, as the Second Respondent had expressed that legal assistance may be extended to him, the High Court Legal Services Committee on such request made, has appointed Mr. C.K.Chandrasekar, Advocate as Legal Aid Counsel to represent him in the matter.

2. Heard Mr. Prakash Adiapadam, Learned Counsel for the Petitioner, Mr. Ramasamy Meiyappan, Learned Counsel for the First Respondent, Mr. C.K.Chandrasekar, Learned Counsel for the Second Respondent and Mr. K.Sasindran, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



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3. The Second Respondent claims to be the owner of the extent of 2.20 ha. in T.N.Palayam Revenue Village, Puducherry, which has been leased to the Third Respondent by way of lease agreement dated 14.09.2022 and he is in occupation of the said property. When the Second Respondent came to know that the Third Respondent was illegally selling the tress in the said property, he had lodged a complaint before the First Respondent under the Indian Forest Act, 1927 (hereinafter referred to as 'the Act' for short), and in furtherance thereof, investigation has been conducted. In the course of such investigation, the Petitioner was issued summons dated 26.07.2023 for which the Petitioner had appeared and made a statement dated 01.08.2023. Thereafter, Order in O.R. No. 29/DF&WL/2023-24/498 dated 25.09.2023 has been passed by the First Respondent in which it has been stated as follows:-

“ Whereas, based on thorough inquiry and facts collated and laid before me, it has been established beyond reasonable doubt that the said Forest Offence Case registered vide O.R.No. 29/DF&WL/2023-24 has been committed by Thiru. M. Ganesan S/o. Muthaiyan, No. 60, Mariamman Koil St, T.N.Palayam, Puducherry who is Retd. Assistant Sub-Inspector of Police and Thiru. Egambaram S/o Athimoolam, No. 33, Ambedkar Street,



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Abhishekapakkam, Puducherry, working as Health Inspector,

Department of Health, Puducherry.

Therefore, in exercise of the powers conferred under Section 68 of the Indian Forest Act 1927, and recent judgment in such offences by the Hon'ble NGT, the offender Thiru. M. Ganesan S/o. Muthaiyan, No. 60, Mariamman Koil St, T.N. Palayam, Puducherry and Thiru. Egambaram S/o. Athimoolam. No. 33, Ambedkar Street, Abhishekapakkam, Puducherry and hereby ordered to:

- 1. To return the entirety of timber realized from the illegal felling to the land owner immediately, in the presence of Forest Officer, Puducherry, within five working days, failing which the land owner shall be paid a sum of Rs. 1,00,000/- (Rupees One Lakh) per tree for each of the Teak (Four Trees) and Red Sanders (One Tree) felled as compensation for timber loss, considering its net present value and cost of carbon sequestered. With respect to the mahogany trees, a total of Rs. 1,00,000/- (Rupees One Lakh) shall be paid, all in the presence of Forest Officer, Puducherry.*
- 2. To pay compounding fee of Rs. 500/- (Rupees Five Hundred only) to the Directorate of Forests and Wildlife, Puducherry,*



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immediately.

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3. *To compensate the loss caused by illegal felling by taking up plantation of 100 Nos of tall saplings with tree guards as compensatory afforestation in land owned by you within a period of ten days, to submit a compliance report and to ensure its maintenance for a period of 15 years; failing which you shall deposit 100 nos of 5 ft tall sapings and 100 nos of iron tree guard of standard size to utilize the same for compensatory afforestation within the U.T. of Puducherry by this Department.*

Non-compliance of any of the above directions shall result in this case being referred to a higher authority for strict intervention and also to be concerned departments for necessary disciplinary action as it is a cognizable offence.”

The said order has challenged in this Writ Petition.

4. It is pointed out by Learned Counsel for the Petitioner that there is no discussion in the impugned order as to how the First Respondent has arrived at the conclusion that the forest offence has been committed by the Petitioner and consequently, the question of offering an opportunity to the Petitioner to



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compound it does not arise. As the said contention deserves acceptance, it is not possible to sustain the impugned order insofar as the Petitioner alone is concerned, and it is set aside to that limited extent. It is needless to add here that depending upon the ultimate outcome of the prosecution against the Petitioner for the forest offence, the Criminal Court shall proceed further in accordance with law.

5. Mr. C.K.Chandrasekar, Learned Counsel for the Second Respondent, who has been nominated by the High Court Legal Services Committee for conducting the case today, shall be paid to the eligible amount of legal fees as per the extant Rules or Rs. 3,000/-, whichever is higher.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 26.03.2024.

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To

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The Deputy Conservator of Forest,
Department of Forest and Wildlife,
Government of Puducherry,
Forest Campus,
Mullaiyagam,
Mudaliarpeta,
Puducherry.

Copy to

The Member Secretary,
High Court Legal Services Committee,
Madras High Court Campus,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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