



WP(MD)No.15155 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 25.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.15155 of 2012
and
MP(MD)Nos.3 of 2012, 1 of 2014
and
WMP(MD)No.6962 of 2023

1. ... (Died)

2.AL.Narasingamurthy

3.AL.Rajendran

4.AL.Ganesan

5.Deivanai

6.P.Prabhu

: Petitioners

[Petitioners 5 & 6 are substituted as legal heirs of the deceased first petitioner, vide order dated 11.04.2023]

Vs.



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- 1.The Director General of Forest &
Special Secretary to Government of India,
Ministry of Environmental Forest,
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi - 110 003.
- 2.The Deputy Conservator of Forest (Central),
Government of India,
Ministry of Environment & Forest,
Regional Office (Southern Zone),
Kendriya Sadam,
4th Floor, E & F Wing,
17th Main Road, 2nd Block,
Koramangala, Bangalore - 560 034.
- 3.The District Collector,
Sivagangai District.
- 4.The Revenue Divisional Officer,
Devakkottai.
- 5.The Tahsildar,
Karaikudi, Sivagangai.
- 6.The District Forest Officer,
Karaikudi, Sivagangai.
- 7.The Forest Project Officer,
Devakkottai Taluk,
Sivagangai District.
(Now called as Regional Manager,
Forest Plantation Corporation Ltd., (TAFCON),
Subramaniapuram, Karaikudi,
Sivagangai District.)



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8.The Conservator of Forest,
Virudhunagar Circle,
Collectorate Campus,
Virudhunagar.

9.The Deputy Director General of Forest,
Ministry of Environment, Forest and Climate Change,
Integrated Regional Office,
1st and 2nd Floor, Handloom Export Promotion Council,
34, Cahedral Garden Road,
Nungambakkam, Chennai – 600 034.

: Respondents

[R.9 *suo-motu* impleaded vide order dated 06.06.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the eighth respondent in Proceedings D/4296/2008 dated 30.10.2008 and the consequential impugned order of the third respondent in Mu.Mu.E4/50793/2007 dated 15.12.2008, quash the same and consequently, directing the respondents 1, 2, 6 & 7 herein to give No Objection to de-reserve the S.Nos.243/2, 243/3 in Aranmanai Siruvayal North Village, Karaikudi Taluk, Sivagangai District and consequently, directing the respondents 3 to 5 herein to classify S.Nos.



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243/2, 243/3 in Aranmanai Siruvayal North Village, Karaikudi Taluk, Sivagangai District, as ryotwari land and issue ryotwari patta to the petitioners.

For Petitioners : Mr.S.Srinivasa Raghavan

For Respondents: Mr.K.R.Laxman,
Central Government Senior Standing Counsel
for R.1, R.2, R.9

Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.3 to R.8

ORDER

This writ petition is filed by the petitioners challenging the orders of the respondents 3 & 8 rejecting patta. They have also sought for a direction to de-reserve the subject lands and to grant patta to them.

2.According to the petitioners, the subject lands in S.Nos.243/2 and 243/3 were granted as inam to their ancestors. On 24.11.1979, the lands in S.No.243 were notified as reserve forest lands under Section 6 of the Tamil Nadu Forest Act, 1882. The petitioners applied for patta for those lands,



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however, it was rejected by the seventh respondent / the Forest Project Officer in CR.No.1/80A400/81 and CR.No.2/80A400/81 dated 06.04.1983.

As against the order dated 06.04.1983, the petitioners preferred an appeal under Section 14 of the Tamil Nadu Forest Act, 1882 in CMA.Nos.4 and 5 of 1983 and it was allowed on 05.03.1984 with a direction to grant patta to the petitioners. Subsequently, the sixth respondent / District Forest Officer has also granted no objection for grant of patta by order dated 20.07.1984. The Tahsildar and Revenue Divisional Officer have also recommended for grant of patta to the third respondent / District Collector. The third respondent sought for an opinion from the eighth respondent / Conservator of Forest, who, in turn, replied through communication dated 03.10.2008 that the State Government cannot grant patta without the permission of Central Government since the lands attract Section 2(c) of the Forest Conservation Act. In view of the same, the third respondent by order dated 15.12.2008 rejected patta to the petitioners. Aggrieved over the same, the petitioners have moved this writ petition.



3. On the contrary, the respondents, by referring to the decision of the Hon'ble Supreme Court in *T.N. Godavarman Thirumalpad v. Union of India* [(2002) 10 SCC 606], contended that patta for forest lands cannot be granted without the approval of the Central Government as per the Forest Conservation Act and Rules. Since there is no approval as per Section 2 of the Forest Conservation Act, 1980, the application for patta was rejected.

4. This Court considered the rival submissions and perused the materials placed on record.

5. The petitioners initially applied for patta over the subject lands under the Tamil Nadu Forest Act, 1882. It was rejected by the seventh respondent / the Forest Project Officer in CR.No.1/80A400/81 and CR.No. 2/80A400/81 dated 06.04.1983. Against the order dated 06.04.1983, the petitioners preferred an appeal under Section 14 of the Tamil Nadu Forest Act, 1882 in CMA.Nos.4 and 5 of 1983 dated 05.03.1984. The issue as to whether the petitioners are entitled to patta was considered by the learned



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District Judge in CMA.Nos.4 and 5 of 1983. The civil Court relied on the report of Forest Settlement Officer dated 19.02.1982, in which, the Forest Settlement Officer stated that the petitioners were in possession of four acres of land and that they were found to be residing and farming. The civil Court also took note of the fact that the petitioners used to reside there for more than 45 years and that they have been paying house tax since 1960. Hence the learned District Judge, reversed the order of the seventh respondent and ordered to grant patta in favor of the petitioners.

6.On the basis of the order passed in the appeal, the seventh respondent by his communication to the fourth respondent dated 20.07.1984 has also recommended for grant of patta to the petitioners. Likewise, the Tahsildar and the Revenue Divisional Officer have also recommended for grant of patta to the District Collector by proceedings dated 08.08.2007 and 21.08.2007. When the District Collector sought for remarks from the eighth Respondent / Conservator of Forests, the eighth respondent vide his impugned letter dated 30.10.2008 stated that the said



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lands attract Section 2 of Forest Conservation Act, 1980 and that the lands are adjacent to the area notified under Section 16 of the Tamil Nadu Forest Act, 1882, which will create pressure on the reserved forests. By relying on this communication, the third respondent by his impugned proceedings dated 15.12.2008 held that patta cannot be granted, as forests cannot be converted for other uses as per the Forest Conservation Act, 1980.

7.As per Section 2 of the Forest Conservation Act, no portion of reserved forest shall be reversed, without the prior approval of the Central Government, notwithstanding anything contained in the State laws. The Hon'ble Supreme Court in *T.N.Godavarman Thirumalpad's* case (cited supra) has held that renewal of mining lease in forest lands cannot be granted without the approval of the Central Government as per the Forest Conservation Act and Rules.

8.In fact, this Court in *Kalyan Gangathara Jawahar v. The Government of Tamil Nadu* [1997 (2) MLJ 106] has held as follows:-



“Sec.2 of the Forest (Conservation) Act, 1980, definitely bars the State Government from granting lease or using the forest land for non-forest purposes or assigning the land or granting lease of the forest land, either, to any private person or to any authority, corporation, agency or any other organisation. Thus the statutory embargo also bars the 1st respondent, State Government to renew the lease in favour of the petitioner. This Court sitting in Art.226 of the Constitution also cannot compel the respondent's or by issue of a writ of mandamus direct the respondents to violate the statutory provisions. Nor can the Court give a direction to the 1st respondent to refrain from enforcing the provisions of law.”

9.Since, the approval from the Central Government under Section 2 of the Forest Conservation Act, 1980, is compulsory for dealing with forest lands, this Court is not inclined to entertain this writ petition. However, pending this writ petition, the petitioners have moved an application to amend the consequential prayer for a direction to respondents 1, 2, 6 and 7 to give “prior approval” as contemplated under Section 2 of the Forest Conservation Act, 1980.



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10. In view of the above position, this writ petition is dismissed, with a liberty to the petitioners to approach the concerned authority for necessary approval under the Forest Conservation Act, 1980 and thereafter, to work out their remedy. No costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

22.12.2023

To

1. The District Collector,
Sivagangai District.
2. The Revenue Divisional Officer,
Devakkottai.
3. The Tahsildar,
Karaikudi,
Sivagangai.
4. The District Forest Officer,
Karaikudi,
Sivagangai.



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5.The Forest Project Officer,
Devakkottai Taluk,
Sivagangai District.
(Now called as Regional Manager,
Forest Plantation Corporation Ltd., (TAFCON),
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6.The Conservator of Forest,
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B.PUGALENDHI, J.

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