



W.P. (MD) No. 2436 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

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

W.P. (MD) No. 2436 of 2023

D.Raja

... Petitioner

-VS-

1.The District Forest Officer,
Virudhunagar District,
Virudhunagar.

2.The Deputy Director,
Office of the Deputy Director,
Srivilliputhur Megamalai, Tiger Reserve,
Srivilliputhur Town,
Virudhunagar District.

3.The Forest Ranger,
Saptur Forest Range Office,
Saptur, Madurai District.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the Second Respondent made in Na.Ka.No.2437/2022/Va dated 25.07.2022 and to quash the same as illegal and arbitrary and consequently direct the respondents herein to permit the petitioner to put up solar electric wire fencing around the land in SF No.1156 of Maharajapuram Village, Srivilliputhur Taluk.



W.P. (MD) No. 2436 of 2023

For Petitioner : Mr. M.Thirunavukkarasu

For Respondents : Mr. N.Ramesh Arumugam
Government Advocate

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ORDER

Heard Mr. M.Thirunavukkarasu, Learned Counsel for the Petitioner and Mr. N.Ramesh Arumugam, Learned Government Advocate, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been granted 2C Patta to enjoy the rights of usufructs of 30 mango trees standing in Survey No. 1156 measuring an extent of 0.4.11 hectare situated at Maharajapuram Village, Srivilliputhur Taluk, Virudhunagar District. Since the said land is located in forest area, the Petitioner had sought for permission for solar electric fencing of the property from the Second Respondent, but it has been rejected by Order in Na. Ka. No. 2437/2022/Va dated 25.07.2022, which is challenged in this Writ Petition.

3. The contention of the Petitioner is that he is entitled to such solar electric fencing under the National Agriculture Development Programme of the Central Government. It has been explained by the Respondents that the aforesaid



W.P. (MD) No. 2436 of 2023

scheme is applicable only to persons owning the land for which permission has been sought, and it could not be extended where the land is owned by the Stated Government and the right is restricted only for enjoying the usufructs, as in this case. That apart, it is pointed out that the location of the property is in reserve forest, where the primacy of its use is for conservation of wild life pitted against commercial interests of individuals.

4. Having due regard to the aforesaid cogent reasons assigned by the Respondents for declining to grant permission has sought to the Petitioner in the impugned order, there does not appear to any infirmity in the decision making process of the Respondents warranting interference by this Court in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution.

In the result, the Writ Petition is dismissed. No costs.

08.02.2023

NCC : Yes/No

Index: Yes/No

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Note: Issue order copy by 16.06.2023.



W.P. (MD) No. 2436 of 2023

To

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W.P. (MD) No. 2436 of 2023

P.D. AUDIKESAVALU, J.

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W.P(MD). No. 2436 of 2023

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