



W.P.(MD)No.4542 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	21.07.2023
Delivered on	22.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

W.P.(MD)No.4542 of 2023

and

W.M.P.(MD) No.4255 of 2023

M/s.Sree Jayamurugan Alloys Private Limited,
SF.No.329/3, 4, 5
Ganapathy Nagar, Vellalagundam,
Salem - 635 111.

... Petitioner

Vs.

1. The District Collector,
Collectorate Campus, Sivagangai,
Sivagangai District.
2. The Revenue Divisional Officer,
Sivagangai, Sivagangai District.
3. The Superintendent of Police,
Sivagangai, Sivagangai District.
4. The District Forest Officer,
Sivagangai, Sivagangai District.
5. The Thasildar,



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Manamadurai Taluk, Sivagangai District.

6 The Inspector of Police,
Manamadurai Sipcto Police Station,
Manamadurai, Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd respondent to provide adequate police protection for cutting and removal of palm trees (Borassus Flabellifer) in our own private Land situated at Manampakki Village, Manamadurai Taluk, Sivagangai District, for installation of Solar Power Plant without insisting of No Objection Certificate (NOC) from the revenue officials in the light of exemption granted by the Government of India, Ministry of Agriculture, Cooperation and Farmers Welfare in his proceedings in F.No. 10-2/2020-NRM -SMAF and in the light of exemption granted from the purview of Timber Transit Rules 1968 in G.O.Ms.No.102 of the Environmental and Forest Department, dated 03.09.2007 and by considering the petitioner's representation dated 30.01.2023 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Pandiarajan

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This petition is filed seeking direction to the respondent police to provide protection while petitioner's company undertakes to cut the trees existing in his private lands.



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2. The affidavit enclosed to this petition would go to show that the petitioner is the authorised representative of the petitioner's company which owns lands to an extent of 40 acres purchased by them for about Rs.80 crores for installation of solar power plant. The petitioner's company does not require 'No Objection Certificate' from the revenue department on account of the exemption granted by the Government of India, Ministry of Agriculture, Cooperation & Farmers Welfare vide proceedings in F.No.10-2/2020-NRM-SMAF and also on account of exemption granted the purview of Timber Transit Rule 1968 in G.O.Ms.No.102 Environmental and Forest Department dated dated 03.09.2007.

3. The petitioner's company is engaged in development and operations of renewable power projects and activities, which is establishing 6MW Solar PV Power Plant under Section 10(1) of the Electricity Act, 2008. The permission for establishment of power plant was already obtained from the Director/Generation of TANGEDCO, Chennai as per letter dated Nil.08.2022. The project is scheduled to be completed within 15 months from the date of the award by spending



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about Rs.30 crores. The petitioner's company has purchased dry lands from the respective land owners for installation of solar panels. The surface area should be flat and panels should be installed under direct sun light. There should not be hindrance of any shadow or objects which will cause damage to the solar panel.

4. There were palm trees in the lands purchased by them. When they started removing the palm trees in their land on 21.11.2022 some anti-social elements threatened the persons belonging to the petitioner's company with dire consequences if the palm trees are removed. When the petitioner's company was about to cut the trees, the said anti-social elements referred the orders of this Court in W.P.(MD) No.25013 of 2022 dated 03.11.2022. According to the petitioner, the orders passed in W.P. (MD) NO.25013 of 2022 are in respect of palm trees standing in the Government lands not in the private lands. The said writ petition was disposed of on 03.11.2022. The relevant portion of the order reads as under:-

"4. At this juncture, learned Additional Government Pleader, taking notice for the respondents, on instructions, submitted that already on the representation given by the



petitioner's villagers, the Revenue Tahsildar, Paramakudi, has sent a communication in Na.Ka.No.A4/9381/2022, dated 07.10.2022 to the District Collector, Ramanathapuram, stating that action has been initiated to nab all those anti-social elements, who are involving in the aforementioned felling of palm trees without obtaining any prior permission.

5. Therefore, placing on record the communication in Na.Ka.No.A4/9381/2022, dated 07.10.2022 and since action has already been initiated, nothing survives in this Writ Petition."

5. According to the petitioner, they are not removing any palm trees from the Government land. All the trees which are proposed to be removed are from their own private land. It is mentioned further that there is no law or rules or the Government Orders mandating the petitioner to obtain No Objection Certificate or prior permission from any authorities including the revenue authorities to cut and remove the palm trees standing in the private land. Palm trees are exempted from felling, transporting and growing in a non-forest area. As per the proceedings issued by the Government of India, Ministry of Agriculture, Cooperation & Farmers Welfare vide proceedings in F.No.10-2/2020-



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NRM-SMAF, in the State of Tamil Nadu, Palmyra Trees (Palm trees) are exempted from felling and transporting. The Tamil Nadu Forest Department has also issued separate guidelines regarding the procedures for felling the trees in S.No.4 of Annexure 5 of List of Exempted Scheduled Timber Species, thereby no permission or NOC is required from any other departments.

6. Establishing Solar Power Plant does not impact the environment. It will not cause any pollution. The petitioner's company has filed a representation on 30.01.2023 to provide adequate police protection while cutting and removal of palm trees from their private land. In case if the trees are not permitted to cut and if the project delays, lot of financial loss will be suffered by the petitioner's company there by sought for a direction to the respondent police to provide adequate protection.

7. Learned Additional Public Prosecutor on the other hand submits that in case if the petitioner follows all the procedures and intends to cut the palm trees only in their private land and not touching the Government



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land, the respondents police will not have any objection.

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8. Heard learned counsel for both sides and perused the record.

9. Considering the submissions on both sides, it is clear that the petitioner's company was granted all the permissions for establishing of Solar Power Plant. So far as this petition is concerned, the question whether the petitioner's company were granted all the permissions for establishing the Solar Power Plant is not the issue. The question for consideration is whether any permission is required for the petitioner's company to cut the palm trees in their private lands and if so, whether the respondents police can be directed to provide suitable protection. The petitioner has produced the proceedings of the Government of India, Ministry of Agriculture, Cooperation & Farmers Welfare vide proceedings in F.No.10-2/2020-NRM-SMAF, in which so far as the Tamil Nadu is concerned, it is mentioned as follows:-

"For all other areas other than those mentioned in (1) and (2), such as patta (private) land and Revenue land, the procedure for permission/intimation for felling of trees (depending on the species classification) is given below:



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For Sandalwood, the tree(s) after felling shall be sold only to Government. The combined procedure for both felling and selling is elaborated in Annexure-1.

For the other Scheduled timber trees namely Black wood, Rose wood (outside the notified forests*), Silver oak, Teak and Red Sanders, no permission for felling of trees is required, however prior intimation is mandatory 15 days before felling and the procedure is elaborated in Annexure - 2.

For all the other tree species, no permission or intimation for felling of tree is required"

10. Considering the above, it is clear that so far as felling and transporting of palm trees in private land is concerned, no permission is required. The petitioner's company has addressed the letter to the Revenue Divisional Officer, Sivagangai District, dated 16.03.2... seeking for permission. Accordingly, the Revenue Divisional Officer addressed a letter to the District Collector, Sivagangai, whether to permit the petitioner's company to remove the palm trees in the private land belonging to them. The District Collector by way of proceedings dated 15.05.2023 in Na.Ka.B2/7059/2023 has issued orders as under:-

"By accepting the above recommendation of the Revenue Divisional Officer Sivagangai, the Revenue



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Divisional Officer, Sivagangai is ordered to permit Sri Jayamurugan Alloys Pvt Ltd company to remove the existing palm trees only in the lands which the patta is transferred in the name of the company in Manampakki group, Seikathur, Manamadurai Taluk, Sivagangai District."

11. In the aforesaid letter, the District Collector has also mentioned about 19 survey numbers to the extent of 22.61 acres. It is mentioned that the lands belonging to the petitioner's company can be cut down. Since the District Collector has already permitted basing on the request of the petitioner on considering the policy of the State and Central Government, the objection raised by the alleged anti-social elements will not sustain. The respondents police are also required to follow the directions of the District Collector, Sivagangai.

12. In view of the above, this petition is allowed directing the respondents police to provide adequate protection to the petitioner's company while cutting the palm trees in their private lands as mentioned in the letter of the District Collector at Survey Nos.1 to 19. Further, prior to cutting the palm trees, the respondents police and the Revenue Divisional Officer, Sivagangai shall ensure that the lands where palm



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trees are being cut down belonged to the petitioner's company and title of which is standing in the name of the company. The petitioner's company shall not be permitted to cut trees either in the Government lands or any other private land which has not shown in the letter of the District Collector. The respondent police shall ensure that Tahsildar concerned shall certify that the land where palm tress are proposed to cut away belongs to petitioner company. Only then the petitioner company can be permitted to cut only palm trees in their patta lands. Consequently, the connected miscellaneous petition is closed.

22.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN



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Manamadurai, Sivagangai District.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

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Dated: 22.09.2023