



W.P.(MD) No.11557 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.11557 of 2020
and
W.M.P.(MD) No.10070 of 2020**

T.Kasinathan

... Petitioner

/vs./

**1.The District Collector,
Thanjavur,
Thanjavur District.**

**2.The Revenue Divisional Officer,
O/o. Revenue Divisional Office,
Kumbakonam,
Thanjavur District.**

**3.The Tahsildar,
Thiruvudaimaruthur Taluk,
Thanjavur District.**

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents from cutting Trees standing in survey No.80 of Narikudi Village, Thiruvudaimaruthur, Thanjavur



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District consequently to take action against the person illegally cutting Butter Trees (Illuppai Tree) in S.No.105 of Narikudi, Village, Thiruvedaimaruthur Taluk, Thanjavur District.

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondents : Mr.D.Ghandiraj
Special Government Pleader

ORDER

The above writ petition is filed for the issue of a Writ of Mandamus forbearing the respondents from cutting trees standing in S.No.80 at Narikudi Village, Thiruvedaimaruthur, Thanjavur District and taking action against the persons, who are illegally cutting the butter trees (Illuppai Tree) in S.No.105 at Narikudi, Village, Thiruvedaimaruthur Taluk, Thanjavur District.

2.It is the case of the petitioner that the tree in question is situate in the Poramboke land in S.No.105 at Narikudi Village, Thiruvedaimaruthur Taluk, Thanjavur District. It is his case that the Village Assistant and the Village Administrative Officer had cut down the trees along with the help of the Government Officials on 23.08.2020 and sold the same for a sum of Rs. 1,80,000/-. The petitioner would submit that the third respondent has sold the



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trees for a very low value, as it would positively fetch a sum of Rs.2,50,000/-.

That apart, the respondents ought to have sold the same through public auction.

3.No counter has been filed by the respondents. However, the learned Special Government Pleader for the respondents would at the outset question the locus of the petitioner. To a question as to the legal basis upon which the petitioner was moving this writ petition, the learned counsel would contend that as per the provisions of Rule 7(3) of the Tamil Nadu Panchayats (Determination of Claim to Trees Growing on Public Roads or Other Property Vesting In or Belonging to Village Panchayats) Rules, 2001, when a panchayat propose to cut or sell the live trees under Clause (b) or (c) of sub-rule (1), then prior sanction of the Revenue Divisional Officer is required, sanction would be accorded only after receiving the report of the Tahsildar and his personal inspection of trees. Therefore, the learned counsel for the petitioner would submit that in the teeth of this provision, the action of the respondents is questionable and therefore, the writ petition ought to be ordered as prayed for.



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4.A perusal of the above Rules would indicate that Rule 4 therein gives an unfettered right to the Government to remove any trees, which is found in Poramboke, which under Section 134 (2) of the Tamil Nadu Panchayats Act, 1994 vest in the Government. Rule 4 would read as follows:-

“4.Rights of the Government to remove any tree. - The Government may cut and remove any tree planted by the village panchayat on any poramboke which is vested in it under sub-section (2) of section 134 of the Act or the use of which is regulated by the panchayat under sub-section (4) of section 134 of the Act, on the grounds of public interest. The Government shall not be liable to pay any compensation for any tree so cut and removed. The trees so cut and removed may either be handed over to the village panchayat or be sold in public auction and where they are sold in public auction, the proceeds of such sale shall be credited to the village panchayat fund.”

5.Rule 7 deals with three contingencies which empowers the village panchayat to cut and sell by auction. The same is detailed herein below:-

“7. Auction of trees. - (1) The village panchayat shall have the powers to cut down or sell by auction, -

(a) wind-fallen and withered trees, irrespective of the fact whether they are fruit-bearing trees or non-fruit-bearing trees;



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(b) live trees on road margins which are considered as dangerous to traffic or a danger to life or health or for executing any work by or on behalf of village panchayat; and

(c) live trees on the bunds of small tanks which serve as sources of supply of drinking water; if the leaves of such trees fall into the tanks and render them unfit for drinking purposes.

(2) The income derived from the sale of the trees under sub-rule (1) shall be appropriated by the village panchayats

(3) When the village panchayat proposes to cut or sell live trees under clause (b) or (c) of sub-rule (1), it shall obtain the sanction of the Revenue Divisional Officer:

Provided that no such sanction shall be accorded except on a report from the Tahsildar of the taluk concerned, after his personal inspection of the trees.

(4) In respect of trees fallen as a result of a cyclone, the village panchayat shall report to the Revenue Divisional Officer and obtain sanction as in sub-rule (3) to sell the trees. The income derived from the sale of such trees under this rule shall be credited to the village panchayat fund.”



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6.Rule 7 (3) talks about sanction from the Revenue Divisional Officer only when the cutting is for the purpose of Clause (b) or (c) of sub-rule (1), which talks about live trees on road margins, which is danger to traffic, life or health and bunds of small tanks. Admittedly, even according to the petitioner's affidavit, the tree in question was in a Poramboke land. Therefore, Rule 4 alone would apply.

7.In the result, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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To

- 1.The District Collector,
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Thanjavur District.
- 2.The Revenue Divisional Officer,
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3.The Tahsildar,
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P.T.ASHA, J.

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