



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

CrI.O.P.(MD) No.15519 of 2020

and

CrI.M.P(MD).No.7574 of 2020

1. Mariammal

2. Prabhu

... Petitioners/Accused No.1 & 2

Vs.

State; through its
Forest Range Officer,
Mundanthurai Range,
Mundanthurai,
Tirunelveli District.
Misc.O.R.6/2020

... Respondent No.1/Complainant

PRAYER: Criminal Original Petition has been filed under Section 482

Cr.P.C. praying to call for the records in Misc.O.R.No.6/2020 on the file
of the respondent forest Officer and quash the same.

For Petitioners : Mr.T.A.Ebenezer

For Respondent : Mr.P.Kottaichamy,
Government Advocate(CrI.Side)

**ORDER**

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This petition is filed to quash the proceedings Misc.O.R.No.6/2020 on the file of the respondent forest officer.

2. According to the petitioners, the petitioners and other persons got assignment in ந.எ.எல்.1.13023/60(18) from the District Collector in the year 1960. Totally there are 18 families in the forest area and the District Collector allotted the land to them. Thereafter, the petitioners and other persons constructed house and residing in that area. In the said circumstances, the Government announced a scheme for construction in the above said area, under the Tribal Housing Scheme. Hence, the petitioners sent a representation and got permission and took steps to start construction by transporting the construction materials. At that time, there was some dispute between the forest department and the petitioners. Hence, the forest department issued a communication as if the petitioner was trying to put up a construction in the Reserved Forest Area is against the Act. Thereafter, the first petitioner filed a writ petition in W.P.(MD).No.12072 of 2019, before this Court and this Court passed the following orders:



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7. Since the permission given by the third respondent is in respect of the building materials to be taken through the check post such as bricks, sand, jalli, cement etc., as permitted in the said permission letter, dated 25.03.2019, this Court finds that there is no justification on the part of the fifth respondent to disallow the petitioner to take such materials as permitted by the third respondent.

8. In that view of the matter, this Court is inclined to dispose this writ petition with the following directions:-

“that the respondents, especially the fifth respondent, is hereby directed to permit the petitioner to take the building materials for undertaking the repair work of the house of the petitioner, which is already located therein, through the Forest check post under the control of the fifth respondent and such permission allowing the petitioner to take the building materials shall strictly on the basis of the permission given by the third respondent by his proceedings in ந.க.எண்.வ/4125/2018, dated 25.03.2019. When this order is produced, the same shall be scrupulously complied with the respondents, especially the fifth respondent, as directed above. It is made clear that apart from the permitted items and quantity as per the



permission dated 25.03.2019 issued by the third respondent, the 6 petitioner shall not carry any other materials or beyond the permitted quantity.”

3. Thereafter, the Government filed the review petition in Rev.Aplc.(MD).No.61 of 2019 and this Court passed the following orders:

15. If such a policy decision is taken by the Government by identifying the alternative site are made available, these families can be put on notice, after elucidating their views, the Government may proceed to issue orders of assignment/patta to each of the family and once such alternative site is given, after consulting the families, including the petitioner, within a reasonable time, thereafter, these families, in a phased manner, shall make arrangement and shift from the original place to the alternative site. This Court, in this regard, is not fixing any rigid time limit and it is for the Government as well as the habitants to mutually agree upon to fix outer limit, within which, they can shift to the new place.

16. In view of the aforesaid facts and circumstances and the view taken by this Court, it is imperative that, the petitioner or any other



inhabitants shall not make any fresh or new construction on permanent basis, including the existing dwelling house by way of additional construction. However, this restriction shall not affect the petitioner by putting up doors and windows of the house already constructed, pursuant to the direction given by the third respondent and the said aspect can very well be inspected by the officials of the Forest Department.

17. With these clarifications and modified order, the Review Application filed by the State is allowed accordingly. No costs.

As per the review order, this Court specifically directed not to put up any additional construction. The petitioners made a construction in violation of the order passed by this Court and also against the Act. Hence, the respondent sent a communication to the learned Judicial Magistrate, Ambasamuthiram, to take action against the petitioners. The respondent registered a case in O.R.No.6 of 2020 against the petitioners under Sections 2(II) of Forest (Conservation) Act, 1980 and Sections 27(1C), 2(e) and 3 of Wild Life (Protection) Act, 1972 and Section 21(f) of the Tamil Nadu Forest Act, 1882 and Section 3(A) of the Forest (Conservation) Act, 1980 and Section 51 (1c) of Wild Life (Protection)



Act, 1972. Challenging the same, the petitioner filed the present quash petition.

4.The petitioners seek to quash the proceedings on the ground that even though the investigation is at preliminary stage, a show cause notice was issued by the respondent and they apprehend dispossession. The respondent has no jurisdiction to send a communication to the learned Judicial magistrate, Ambasamuthiram, when admittedly the petitioners were allotted the land in the year 1960 and they made a construction. The only allegation against the petitioners is that they made further construction, which is not correct and they only made some repairs on the already constructed house compliance of the order passed by this Court.

5.The learned Government Advocate (Crl. Side) on instructions, submitted that they did not do any repair works and they made new construction. Hence, there is a violation of the order passed by this Court and also the provisions of the forest Act and the other provisions mentioned in the proceedings in Ro.1.2.32343/93, dated 18.05.1995.



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6. This Court considered the rival submission made on either side and also perused the records.

7. As rightly pointed out by the learned counsel for the petitioners that the petitioners constructed the house on the basis of the assignment made in the year 1960. The said lands belong to the Forest department. The said issue is to be decided in appropriate Court in proper manner. But, as per the order of this Court, the petitioners now only made renovation works. In the said circumstances, no illegality was committed by the petitioners and hence, this Court is inclined to quash the proceedings initiated against the petitioners.

8. Accordingly, this Criminal Original Petition is allowed and the proceedings in Misc.O.R.No.6/2020 on the file of the respondent forest officer is quashed. It is open to the respondent department, to proceed in accordance with law, if new construction is made. Consequently, the connected criminal miscellaneous petition is closed.

08.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

1. The Forest Range Officer,
Mundanthurai Range,
Mundanthurai,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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