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W.P.(MD)NO.19838 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 04.08.2023

PRONOUNCED ON : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19838 of 2015 AND
M.P.(MD)Nos.2 & 3 of 2015

1. C.Iyyapan
2. P.Chinnayan
3. Possaarikaranthan
4. K.P.Gandhi
5. P.Uddapi
6. Shanthi
7. Podumanni
- 8.Vellaichamy
9. Chinnatha
- 10.Thangamani
- 11.Ayyanar
- 12.Ponnana
- 13.Karanthan
- 14.K.Selvaraj



15. Malaiandi

16. Pitchai

17. Andisamy

18. Chinnakaranthan

19. Udappan

20. M. Karanthan

21. Matchkalai

22. Pudari

23. Vellayan

24. Velliyamma

25. Chinnayan

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Environment & Forest(FR14) Department,
Secretariat, Chennai.
2. The Principal Chief Conservator of Forest,
1-Jennis Road,
Panagal Building, Saidapet,
Chennai -13.
3. The Commissioner of Land Revenue Administration,
Ezhilagam, Chepauk,
Chennai -5.
4. The District Collector,
Dindigul District,
Dindigul.



5. The Forest Settlement Officer,
Dindigul.

6. The District Forest Officer,
Dindigul Forest Office, Dindigul.

7. The Forest Range Officer,
Dindigul Range,
Dindigul.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned notification passed by the first respondent in Government District Gazette dated 10.01.2013 at No.03 in G.O.No.218 (Environment and Forest Department (FR14) dated 10.09.2012 and quash the same as illegal.

For Petitioner : Mr.R.Nandakumar

For Respondent : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

The case of the writ petitioners is as follows:-

The petitioners are engaged in carrying out agricultural activities in the petition-mentioned survey number in Sengurichi Village, Dindigul District for several decades. Their



grievance is that the respondents are interfering with their activities on the strength of the impugned notification. A number of persons in adjoining survey numbers have been allowed to continue their farming activities under the relevant provisions of the Tamil Nadu Forest Act 1882. The petitioners are being discriminated. Since their livelihood is under threat, the present writ petition came to be filed.

2. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned notification and grant relief as prayed for.

3. The respondents have filed counter affidavit. According to the respondents, the procedure set out in the Tamil Nadu Forest Act 1882 was scrupulously followed and that the question of interfering with the impugned notification does not arise at all.

4. The learned Additional Government Pleader after taking me through the contents of the counter affidavit, relied



on the order dated **13.07.2011** made in ***W.P.Nos.731 of 2007 etc. batch (Sirumalai Pazhathotta Vivasayigal Sangam, Dindigul District and others V. The State of Tamil Nadu)***. He would point out that once a land has been declared as reserved forest area, private claims will have to give way. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. Sections 4 and 6 of the Tamil Nadu Forest Act 1882 read as follows:-

“ 4. Notification by the Government -

Whenever it is proposed to constitute any land a reserved forest the Government shall publish a notification in the Official Gazette and in the official Gazette of the district-

(a) specifying, as nearly as possible, the situation and limits of such lands ;

(b) declaring that it is proposed to constitute such land a reserved forest;



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(c) appointing an officer (hereinafter called the Forest Settlement Officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest-produce of such land, and to deal with the same as provided in this Chapter. The officer appointed under class (c) of this section shall ordinarily be a person other than a Forest-officer; but a Forest Officer may be appointed by the Government to attend on behalf of the Government at the inquiry prescribed by this Chapter.

...

6. Proclamation by Forest Settlement Officer - When a notification has been issued under section 4, the Forest Settlement Officer shall publish in the official Gazette of the district, and at headquarters of each taluk in which any portion of the land included in such notification is situate, and in every town and village in the neighborhood



of such land, a proclamation-

(a) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the reserved forest;

(b) setting forth the substance of the provisions of section 7;

(c) explaining the consequences which, as herein-after provided, will ensure on the reservation of such forest; and

(d) fixing a period not less than three months from the date of publishing such proclamation in the official Gazette of the district and requiring every person claiming any right referred to in section 4 either to present to such officer, within such period, a written notice specifying, or to appear before him within such period and state, the nature of such right and in either case to produce all documents in support thereof. The Forest-settlement-officer shall also serve notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the



land proposed to be constituted a reserved forest, or on his recognized agent or manager. Such notice may be sent by registered post to persons residing beyond the limits of the district in which such land is situate.”

7. Under Section 4 of the Act, G.O.(Ms).No.106 Environment and Forests (FR 14) dated 06.04.2004 was issued. A copy of the same has been produced for my perusal. I went through the same. It is seen that the notification pertains to survey field No.1600/A in Sengurichi Village and encompasses 168.98.5 hectares. The boundaries have also been set out. It was published in the Tamil Nadu Government Gazette No.29 dated 28.07.2004. It was also published in Dindigul District Gazette No.24 dated 09.08.2004. Section 4 notification contains the proposal which was followed by proclamation under Section 6 of the Act. A Copy of the notification issued under Section 6 of the Act has also been made available. Thereafter, the Forest Settlement Officer, Dindigul received as many as 30 claims and they were also admitted by the said authority. Paragraphs 11 and 12 of the



counter affidavit filed by the District Forest Officer, Dindigul

Division read as follows:-

“11. It is submitted that in fact the 16th petitioner herein by name Pitchai, raised a Claim No.7 of 2005 by his application dated 22.03.2005 in respect of his occupation in S.F.No.1600/A2 and he was not produced any document to prove that he was in possession before the notification. Hence, his claim was dismissed by the Forest Settlement Officer. It is further submitted that the 18th petitioner herein by name Chinnakaranthai, raised a Claim No.8 of 2005 by his application dated 22.03.2005 in respect of his occupation in S.F.No. 1600/A2 for agricultural purpose. His claim was admitted by the Settlement Officer and his land has not been included in the impugned G.O.No.218 dated 10.09.2012. In the result, after exonerating all those claimed lands, the 5th respondent has declared only 146.75.0 hectates in S.F.No.1600A/2 as a “Reserved Forest” vide the impugned G.O., out of 168.98.5 Hectares land in survey filed No.1600/A



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were initially taken up for the proposal of declaring as a Reserve Forest. The fifth respondent duly informed the proposals to the necessary Government offices. Thereafter, the concerned officers are duly affixed the proposals of declaration have been passed in the official notice board.

12. It is submitted that except the 16th and 18th petitioner, other petitioners have not raised any claim before the Settlement Officer. Now belatedly, the petitioners claim right in the “Reserved Forest” area notified under Section 16 of the Act, by way of the present writ petition. Hence, it is liable to be dismissed.”

8. I am satisfied that the procedure set out in the Act have been followed. In the affidavit filed in support of the writ petition, no tangible ground for interference has been made out. The primary argument was that the procedure set out in the statute was not followed. The materials placed before me clearly indicate that not only the notifications were issued and



published in the Gazette but also claims of many persons were admitted by the Forest Settlement Officer. This shows that there was due application of mind. The contention that the petitioners' livelihood would be affected cannot be a ground for invalidating the impugned notification. The Hon'ble Apex Court has been passing series of directions in ***T.N.Godhavarman V. Union of India*** for preserving the available forest cover. It has been held therein that the term "forest" must be liberally understood and that encroachment of forest land cannot be regularised. This position was followed in the order dated 13.07.2011 in W.P.Nos.731 of 2007 etc. batch. In matters relating to protection of forest lands, the writ Court has to defer to the wisdom of the executive. No case for interference has been made out. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.10.2023

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

1. The Secretary to Government,
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Secretariat, Chennai.
2. The Principal Chief Conservator of Forest,
1-Jennis Road,
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3. The Commissioner of Land Revenue Administration,
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