



W.P(MD)No.22495 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22495 of 2023

Santhanaraj.A

... Petitioner

Vs

1.The District Forest Officer,
Tenkasi District,
Tenkasi.

2.The Forest Range Officer,
Courtallam Forest Range,
Shenkottai,
Tenkasi District.

3. K. Balakrishnan,,
The Then Forest Range Officer,
13/170-16, Pothigai Street,
Selva Vinayakarpuram,
Kalloorani Street,
Pavoor Chathiram, Tenkasi,
Tirunelveli District.

4.The District Collector,
Tenkasi.

...Respondents

(R3 and R4 are *suo motu* impleaded Vide Court Order Dated.04.10.2023 in WP(MD).22495 of 2023 by BPJ).



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to grant permission to cut 66 teak trees in the petitioner's property situated in Survey No.621, Puliyarai Village, Shankottai taluk, Tenkasi District based on the representation of the petitioner dated 23.03.2021 and the proceedings of the 2nd respondent in Na.Ka.No.81/2021 dated 09.04.2021.

For Petitioner : Mr.Puhazh Gandhi
For Respondents : Mr.P.T.Thiraviam
Government Advocate

ORDER

The petitioner claims that he is the owner of the property in S.No.621, Puliyarai Village, Shencottai Taluk, Tenkasi District and states that he has planted 66 teak trees in the said patta land, which were grown and ripe for cutting. The petitioner has submitted an application on 23.03.2021 seeking permission to cut and remove the trees from his property in S.No.621 and based on his application, the second respondent has conducted an inspection on 09.04.2021 and found that out of 66 trees, 2 trees lies in the Forest Conservation Zone and there is no objection for cutting and removing the other 64 trees. Based on this report of the Range Officer, Kutralam, dated 09.04.2021, the petitioner has submitted an application for grant of



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permission from the first respondent/the District Forest Officer, Tenkasi and the District Forest Officer by his proceedings dated 11.11.2021 rejected the petitioner's application.

2.The learned counsel appearing for the petitioner submits that the application was submitted only before the District Forest Officer and the District Forest officer has forwarded the application to the second respondent for his report and the second respondent has filed a report on 09.04.2021 that this petitioner's property does not fall within the eco sensitive zone or as private forest. Therefore, there is no prohibition for cutting of trees. Even after the recommendation of the second respondent, the first respondent has not granted permission to cut the trees based on his application dated 23.03.2021. Therefore, the petitioner has filed this writ petition for a Mandamus directing the respondents to grant permission for cut and removal of trees. According to the learned counsel for the petitioner delay in granting permission is likely to cause damage to the standing trees.



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3.The learned Government Advocate appearing for the respondents submits that on receipt of the petitioner's online application dated 23.03.2021, the Forest Ranger has conducted a spot inspection on 09.04.2021 and submitted a report to the District Forest Officer. Based on the report of the Forest Ranger, the District Forest Officer has conducted a field inspection at the said Survey No.621 and came to know that the permission sought for felling of teak trees lie in the disputed area of Puliyarai Reserve Forest and that field area is having disputed boundary and also vested with the State of Kerala, which was transferred to the State of Tamil Nadu in the year 1955. Due to wrong fixation of wrong trigonometric survey measurements during re-survey of this transferred territory from Kerala, the area ought to come within reserve forests were left behind and the adjoining patta landholders claiming that area as their patta field. The departmental teak plantations are now claimed by the petitioners as they presently fall within their patta fields due to incorrect boundary fixation of Puliyarai Reserve Forest boundary during re-survey. The facts were brought to the knowledge of Government by the Principal Chief Conservator of Forests, Chennai



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vide Letter No.T.S./41080/2009, dated 07.09.2009 and resurvey in respect of transferred territory of Shencottai Taluk was taken up and the work is carried out by survey Department. He also claims that the petitioner's online application was rejected on 11.11.2021 itself and action was taken as against the concerned Range officer for not bringing the facts to the District Forest Officer. He also states that the subject land comes under the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955. As per section 3 of the Act, no person shall without previous permission in writing of the Committee constituted under the Act can cut and remove the trees from the Hill areas. The District Collector, who is having jurisdiction is the Chairman of the Committee and permission for cut and removal of trees has to be obtained from this Committee constituted under Section 2A of the Act.

4.This court considered the rival submissions made and also perused the materials placed on record.



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5.The petitioner claims that the land in S.No.621 of Puliyarai Village, Sencottai Taluk is his patta land. He wants to cut and remove 66 trees from his land and he submitted an application on 23.03.2021. The District Forest Officer by his proceedings dated 11.11.2021 has rejected the petitioner's application. The petitioner claims that he has not even issued with the rejection order. The first respondent has taken a stand that the subject land was transferred from the State of Kerala and at that time, proper survey was not conducted. The Principal Chief Conservator of Forests, Chennai has also made a request for conducting a resurvey in respect of the transferred territories in Shencottai Taluk to the Government and on the directions of the Government, resurvey is likely to be conducted by the Survey Department. After completion of the resurvey, a decision could be taken by the respondents.

6.In view of the above, this Court is inclined to dispose of this writ petition with the following directions.

- i. The Government shall conclude the resurvey in S.No.621, Puliyarai Village, Shencottai Taluk, Tenkasi District along



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with officials of the State of kerala within a period of six months.

- ii. The petitioner shall be furnished with a copy of the rejection order, dated 11.11.2021 forthwith.
- iii. Liberty is granted to the petitioner to challenge the rejection order, dated 11.11.2021 in the manner known to law.
- iv. The petitioner shall also renew his application for cut and removal of trees after a period of six months, if the survey is not concluded within the period stipulated by this Court.

7. Accordingly, this writ petition is disposed of. No costs.

20.10.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes
vrn



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To

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Tenkasi.
- 2.The District Forest Officer,
Tenkasi District,
Tenkasi.
- 3.The Forest Range Officer,
Courtallam Forest Range,
Shenkottai,
Tenkasi District.



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B.PUGALENDHI, J.

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Order made in
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20.10.2023