



W.P(MD)No.28220 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.01.2023

Delivered on : 06.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.28220 of 2022

and

W.M.P.(MD)No.22296 of 2022

M/s.Green Infra Wind Energy Limited,
Having registered office at
5th Floor, Tower C, Building No.8,
DLF Cyber City, Gurugram - 122 002,
Haryana, India,
Rep.by its General Manager,
R.Shanmugarajeshwaran.

... Petitioner

Vs.

- 1.The District Collector,
Collectorate Campus,
Ramanathapuram,
Ramanathapuram District.
- 2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram,
Ramanathapuram District.
- 3.The Superintendent of Police,
Ramanathapuram,
Ramanathapuram District.



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4.The District Forest Officer,
Ramanathapuram, Forest Range,
Ramanathapuram District.

5.The Tahsildar,
O/o.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

6.The Inspector of Police,
Sikkal Police Station,
Sikkal, Ramanathapuram District.

... Respondents

(R-6 is impleaded vide Court order
dated 20.12.2022 in WMP(MD) No.22722 of 2022
in W.P.(MD)No.28220 of 2022)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to provide adequate police protection for Cutting and Removal of Palm Trees (*Borassus Flabellifer*) in our own Patta Land situated at Siraikulam Village, Kadaladi Taluk, Ramanathapuram 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 & 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 Environmental and Forest Department, dated 03.09.2007 and by considering the petitioner's representation vide letter No.GIWEL/Siraikulam 50MW/SP 001, dated 01.11.2022 within the period that may be stipulated by this Court.



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For Petitioner : Mr.Ajmal Khan, Senior Counsel,
for M/s.Ajmal Associates.

For Respondents : Mr.C.Baskaran,
Government Advocate (Civil Side)
for R1, R2 and R5.

: Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor,
for R3, R4 and R6.

ORDER

The writ petitioner filed this Writ Petition seeking for issuance of a Writ of Mandamus directing the third respondent to provide adequate police protection for Cutting and Removal of Palm Trees (Borassus Flabellifer) in their own Patta Land situated at Siraikulam Village, Kadaladi Taluk, Ramanathapuram 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 & 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 Environmental and Forest Department, dated 03.09.2007 and by considering the petitioner's representation vide letter



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No.GIWEL/Siraikulam 50MW/SP 001, dated 01.11.2022 within the period that may be stipulated by this Court.

2. The case of the petitioner is that the Company is engaged in the development of operations of renewable power projects and allied activities; that the petitioner and its group of Companies owns and operates close to 1750 MW wind and solar based power projects spread across the States of Rajasthan, Tamil Nadu, Karnataka, Maharashtra, Madhya Pradesh and Gujarat; that the petitioner Company is now presently establishing a new 110/33 KV Pooling Sub Station with erection of 1 x 50 MVA, 110/33KV Power Transformer at Siraikulam Village, Kadaladi Taluk, Ramanthapuram District for evacuation of power from its 50 MW of Solar PV Power Plant; that permission was granted for the above said Solar Power Plant by the Director of TANGEDCO, Chennai, by issuing a Letter of Award by his proceedings in Lr.No.001899/L21/F, dated 07.10.2022; that the petitioner's project is a time bound and the same is required to be commissioned within 15 months from the date of the award and that the petitioner Company had purchased dry lands for establishment of the said 50 MW Solar power plant.



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3. It is the further case of the petitioner that the surface of the area should be flat and the panel should be installed under direct sunlight; that there should not be any hindrance of shadow or other objects; that in the dry lands purchased for setting up of the above said plant, Palm Trees are there and therefore, the petitioner Company has decided to remove all the palm trees standing on their project lands; that when the petitioner Company started to remove the palm trees on 17.09.2022, some of the anti-social elements in the shadow of Political colours threatened with dire consequences against the removal of palm trees and that therefore, the petitioner Company is constrained to file the above petition.

4.The learned Senior Counsel appearing for the petitioner Company would submit that a Writ Petition came to be filed in W.P.(MD)No.25013 of 2022, seeking to issue a writ of of mandamus, directing the respondents therein to prevent any person from in any manner to cut or remove palm trees in Kadaladi Taluk and nearby villages on the basis of the representation given by the petitioner therein and that the said Writ Petition has been disposed of by observing, *“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*



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in this Writ Petition"; that the petitioner was neither arrayed as a party respondent nor there is any specific allegation against the petitioner Company and that the above said writ petition was filed with respect to the palm trees in the Government Lands, whereas in the present Writ Petition palm trees on private lands.

5. The learned Senior Counsel would further contend that neither any Act nor Rules nor any Government Orders mandates to obtain any prior permission or No Objection Certificate from any of the Authorities to cut and remove the palm trees standing on the private lands.

6. The learned Senior Counsel has produced the copy of the memorandum issued by the Government of India, Ministry of Agriculture, Cooperation and Farmers Welfare, wherein they have furnished State wise list of Trees Species free from Felling and Transit Regulations growing on non forest area/private land. In the said memorandum, Tamil Nadu finds place in Serial No.28 and wherein, palm trees are exempted from felling and transit regulations.



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7. The learned Senior Counsel has also brought to the notice of this Court the guidelines issued by the Forest Department regarding the procedure for permission/intimation for selling of trees, wherein it has been specifically stated except the Sandal Wood, Black Wood, Rose Wood, Silver oak, Teak and Red Sanders, no permission or intimation for felling of trees is required for all other trees species and in the Annexure-5 : List of Exempted Scheduled Timber species, Panai/ Palmyrah having the botanical name of *Borassus flabellifer*, is exempted from obtaining permission. Moreover, Government of Tamil Nadu has also issued a Government Order in G.O.Ms.No.102, Environmental and Forest Department, dated 03.09.2007, exempting palm trees for getting permission for the transit of trees grown in the private land and in the Annexure- *Borassus flabellifer* i.e., Panai finds place.

8. The learned Government Advocate (Civil Side) appearing for the respondents 1, 2 and 5 would submit that the Tahsildar, Kadaladi, has submitted a letter to the Revenue Divisional Officer, dated 22.09.2022, intimating the above cutting of palm trees and other trees and their action of seizing the same and in pursuance of the said letter, the Revenue Divisional Officer, Paramakudi, after visiting the disputed



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place, has submitted a letter, dated 07.10.2022 to the District Collector, Ramanathapuram, recommending for necessary action against the persons, who had removed the trees; that the District Collector/first respondent, in turn has submitted a letter to the Additional Chief Secretary, seeking clarification as to whether any Government Orders or Circulars were already issued prohibiting the cutting and removing of palm trees in the private lands and the nature of action to be taken against the persons, who had removed the trees without permission.

9. It is shocking to notice that the Tahsildar, Revenue Divisional Officer and the Collector without taking any steps to know about the existence of the Circular and the Government Orders issued by the Central and State Governments, they have been addressing the letters as if there was no such Order or Circular. It is unfortunate that the respondents 1 and 2 are not aware of the existence of the memorandum issued by the Ministry of Agriculture, Cooperation & Farmers Welfare and the guidelines issued by the Forest Department and more particularly the Government Order in G.O.Ms.No.102.

10. It is not the case of the respondents 1 and 2 that the memorandum and the Government Orders relied on by the petitioner are



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not in force as of now and that the Central and State Governments have issued subsequent orders prohibiting cutting and removing of palm trees lying on the private lands.

11. It is not in dispute that the lands shown by the petitioner Company are the patta lands.

12. Considering the above, since no permission or intimation is necessary from the Revenue Authorities, the objections now raised by the respondents 1 , 2 and 4 are absolutely devoid of merits.

13. During the pendency of the above petition, since the properties are situated within the Police limits of Sikkal Police Station, sixth respondent has been impleaded.

14. The learned Additional Public Prosecutor appearing for the respondents 3, 4 and 6 would submit that the representation given by the petitioner is pending before the third respondent. He would further submit that since the petitioner complains of threatenings by the anti-social elements, the third respondent may be directed to consider the



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petitioner's representation and pass orders within the time to be stipulated by this Court.

15.The learned Additional Public Prosecutor would further submit that since the petitioner has already removed 344 palm trees and have proposed to remove more than 1000 trees, they may be directed to plant some trees.

16. At this juncture, the learned Senior Counsel for the petitioner would immediately concede the request and he would submit that the petitioner is ready to give 2000 tree saplings or as directed by this Court to the fourth respondent. The submission made by the learned Senior Counsel is recorded.

17. It is a good idea to plant new trees, after cutting some existing trees. Nature is destroyed when trees are cut down because of the contribution of nature and the fauna continues to decay. Trees are precious elements nature and it is a special contribution to nature and the whole existence of the fauna depends on the trees.



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18. This Court places its appreciation on record to Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor for mootng this idea and Mr.Ajmal Khan, learned Senior Counsel for accepting the request immediately.

19. In the result, the Writ Petition is disposed of on the following terms :

(i) The third respondent is directed to consider the petitioner's representation positively and pass orders within a period of one week from the date of receipt of copy of this order;

(ii) The petitioner Company is directed to give 2000 palm tree saplings and 1000 saplings of other categories of trees to the fourth respondent, who in turn, is directed to plant the same by themselves or through NGO, in the places recommended by the fourth respondent.

Consequently, connected Miscellaneous Petition is closed.

06.01.2023

NCC : Yes/No
Index :Yes/No
Internet : Yes/ No
das

11/13



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To

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K.MURALI SHANKAR, J

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