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W.P.No.12923 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12923 of 2024
and W.M.P.No.14090 of 2024

1. V.Selvaraj
2. M.Gurunathan

...Petitioners

Vs

1.The District Collector,
Udhagamandalam District.

2.The District Forest officer,
The Nilgiris Forest Division,
Udhagamandalam.

3.The Forest Ranger,
Governor Shola Range, Fernhill,
Udhagamandalam.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 14.11.2023 and not to obstruct or cause hindrance to the right of ingress and egress and its unhindered use to reach the petitioners farm lands and houses through the said pathway situated at Nanjanad, Udhagamandalam Taluk and District comprised in R.S.No.679 and 678 which has been in existence from time immemorial.

For Petitioners

: Mr.M.Senthilvadivu



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For Respondents

:Dr.T.Seenivasan for R2 and R3
Special Government Pleader
Mr.P.Gurunathan for R1
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to consider the petitioners' representation dated 14.11.2023 and not to obstruct or cause hindrance to the right of ingress and egress and its unhindered use to reach the petitioners farm lands and houses through the said pathway situated at Nanjanad, Udhagamandalm Taluk and District comprised in R.S.No.679 and 678 which has been in existence from time immemorial.

2. The case of the petitioners is that the property admeasuring 4.25 acres situated at Nangjanad, Udhagamandalam comprised in R.S.No.118 and new survey No.673 was the ancestral property of B.Nanjan and 12 others and they were cultivating the said land by growing mountain crops and by forming tea garden for the past 60 to 70 years and they had sold the same to one N.Chandran and inturn the same was sold to N.Krishnamurthy under a sale deed dated 27.10.2005 registered as document No.885/2005 at the office of Joint Sub Registrar-II Udhagamandalam. Thereafter, the 1st petitioner purchased the property



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from one V.Subbathal vide settlement deed dated 22.03.2012 and registered as Doc.No.340/2012 at Joint II Sub Registrar, Udhagamandalam and he is cultivating mountain crops. The pathway to the said lands branches out from the main road that was laid to reach Government Horticulture Farm at Kolgrain. The said 15 feet wide pathway in Survey Nos. 679 and 678 has been in use for the past several decades for a distance of 100 metres. All the landowners in that area were using the said pathway from time immemorial. While so, the mud pathway gets worse during rainy season and no one can reach their destinations. Hence, all the landowners have requested the officials to permit the petitioners to patch up the mud road for free movement of vehicles in the said pathway and the officials have stated that they will get the sanction from the higher officials. Since no steps have been taken for a longer period, they have decided to develop the pathway by filling with gravel stone. The forest department officials had stopped the work, and levied fines and threatened the landowners not to use the said pathway. Therefore, the petitioners made a representation dated 14.11.2023 to the respondents not to obstruct and cause hindrance to the right of ingress and egress to their farmlands and respective houses through the said pathway.



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Thereafter, the 1st respondent had sent a letter dated 21.01.2023 to the 2nd respondent and the concerned Revenue Divisional Officer, Ooty to take appropriate action, but no action has been taken till date. Hence, the present writ petition.

3. Learned Special Government Pleader appearing for the 2nd and 3rd respondents would submit that the petitioners and their accomplices have widened the road and has used heavy machineries in the reserved forest land and have tried to widen the pathway by breaking up the forest land. The pathway near the petitioners' property is a part of Wenlockdowns Reserve Forest under the Government Shola Range, Nilgiris Forest Division. On 28.04.2023, the petitioners tried to enter reserved forest land with their tractors and tried to widen the pathway without the knowledge of the forest officials and without any orders from the competent authority which is an offence under Section 21(d),(a),(e) and (g) of Tamil Nadu Forest Act 1882 and a case was registered in O.R.No.4/2023 and O.R.No.5/2023 and later, on admission by the petitioners, the same was compounded for a penalty of Rs.1,25,000/- as levied by the District Forest Officer and were also reprimanded. Hence, the petitioners do not have any right of way over the said pathway.



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The adjoining forest area is a Shola Forest which is endemic to Western Ghats and is part of the Nilgiris Biosphere reserve. He further submitted that the forest is a home to highly endangered flora and fauna, any smallest intervention will adversely affect the sensitive ecology and endangered species of the region. Hence, the intention of the petitioners to form a road through the forest land is in violation of the Forest Conservation Act, 1980. In support of his contention, he filed maps and photographs of the petitioners' land area surrounded by wetland areas RF and also the direct access to the existing pucca road leading to State Horticulture farm from the patta land belonging to the petitioner.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials available on record.

5. On going through the documents and the maps, it is seen that the roads are laid by the petitioners recently by adjoining the Shola Forest area, which is endemic to Western Ghats and is part of the Nilgiris Biosphere reserve. The petitioners also tried to widen the pathway without the knowledge of the forest officials and without any orders from the competent authority. Therefore, the petitioners have no rights to lay the road by breaking up the forest lands, which adversely affect the



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sensitive ecology and endangered to the rare species of the region.

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6. With the above observation, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

30.07.2024

Index:Yes/No
Speaking order/Non-speaking order
msv

To

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V.BHAVANI SUBBAROYAN,J.



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