



W.P. No. 35957 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 35957 of 2023

and

W.M.P. No. 35954 of 2023

M.Ganesan

... Petitioner

-VS-

1. Deputy Conservator of Forest
Department of Forest and Wildlife
Government of Puducherry
Forest Campus, Mudaliarpet
Puducherry.

2. K.Pramassivane

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records relating to impugned order vide O.R. No. 29/DF&WL/2023-24/498 dated 25.09.2023 issued by the First Respondent and quash the same.

For Petitioner : Mr. K.Sasindran

For Respondents : Mr. M.Nirmal Kumar, GA(Pondy) (R1)

Mr. C.K.Chandrasekar (R2)



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ORDER

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The notice sent to the Second Respondent, viz., K.Paramassivane, has been returned with the postal endorsement 'unclaimed'. Since Mr. C.K.Chandrasekar had been appointed as Legal Aid Counsel for the Second Respondent in another Writ Petition in W.P. No. 29658 of 2023 filed by one M.Ganesan relating to the same matter, he has been asked to represent him as Legal Aid Counsel in this Writ Petition also.

2. Heard Mr. K.Sasindran, Learned Counsel for the Petitioner, Mr. M.Nirmal Kumar, Learned Government Advocate (Pondicherry) appearing for the First Respondent and Mr. C.K.Chandrasekar, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The Second Respondent claims to be the owner of the extent of 2.20 ha. in T.N.Palayam Revenue Village, Puducherry, which has been leased to the Petitioner by way of lease agreement dated 14.09.2022 and he is in occupation of the said property. When the Second Respondent came to know that the Petitioner was illegally selling the tress in the said property, he had lodged a



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complaint before the First Respondent under the Indian Forest Act, 1927, and in furtherance thereof, investigation had been conducted. Thereafter, Order in O.R. No. 29/DF&WL/2023-24/498 dated 25.09.2023 has been passed by the First Respondent in which it has been stated as follows:-

“ Whereas, based on thorough inquiry and facts collated and laid before me, it has been established beyond reasonable doubt that the said Forest Offence Case registered vide O.R.No. 29/DF&WL/2023-24 has been committed by Thiru. M. Ganesan S/o. Muthaiyan, No. 60, Mariamman Koil St, T.N.Palayam, Puducherry who is Retd. Assistant Sub-Inspector of Police and Thiru. Egambaram S/o Athimoolam, No. 33, Ambedkar Street, Abhishekapakkam, Puducherry, working as Health Inspector, Department of Health, Puducherry.

Therefore, in exercise of the powers conferred under Section 68 of the Indian Forest Act 1927, and recent judgment in such offences by the Hon'ble NGT, the offender Thiru. M. Ganesan S/o. Muthaiyan, No. 60, Mariamman Koil St, T.N. Palayam, Puducherry and Thiru. Egambaram S/o. Athimoolam. No. 33, Ambedkar Street, Abhishekapakkam, Puducherry and hereby ordered to:



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1. *To return the entirety of timber realized from the illegal felling to the land owner immediately, in the presence of Forest Officer, Puducherry, within five working days, failing which the land owner shall be paid a sum of Rs. 1,00,000/- (Rupees One Lakh) per tree for each of the Teak (Four Trees) and Red Sanders (One Tree) felled as compensation for timber loss, considering its net present value and cost of carbon sequestered. With respect to the mahogany trees, a total of Rs. 1,00,000/- (Rupees One Lakh) shall be paid, all in the presence of Forest Officer, Puducherry.*
2. *To pay compounding fee of Rs. 500/- (Rupees Five Hundred only) to the Directorate of Forests and Wildlife, Puducherry, immediately.*
3. *To compensate the loss caused by illegal felling by taking up plantation of 100 Nos of tall saplings with tree guards as compensatory afforestation in land owned by you within a period of ten days, to submit a compliance report and to ensure its maintenance for a period of 15 years; failing which you shall deposit 100 nos of 5 ft tall sapings and 100 nos of iron tree guard of standard size to utilize the same for*



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compensatory afforestation within the U.T. of Puducherry by this Department.

Non-compliance of any of the above directions shall result in this case being referred to a higher authority for strict intervention and also to be concerned departments for necessary disciplinary action as it is a cognizable offence.”

The Petitioner has on 15.12.2023 filed this Writ Petition challenging the said order contending that there is no discussion in it as to how the First Respondent has arrived at the conclusion that the forest offence has been committed by the Petitioner and consequently, the question of offering an opportunity to the Petitioner to compound it does not arise.

4. Further, this Court by order dated 29.11.2023 in W.P. No. 29658 of 2023, has set aside the same impugned order insofar as it relates to the said Egambaram with an observation that depending upon the ultimate outcome of the prosecution against him for that forest offence, the Criminal Court shall proceed further in accordance with law.

5. That apart, it has been brought to notice that after the filing of the Writ Petition, the Second Respondent has on 19.01.2024 signed in a joint



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compromise memo entered in the civil suit in O.S. No. 1510 of 2022 between the Petitioner and one Kothandaraman before the II Additional District Munsif Court, Puducherry, in which the Second Respondent has agreed that the Petitioner has not been involved in the forest offence and has undertaken to withdraw the complaint lodged by him against the Petitioner and will also not make any claim against him in that regard. The copy of the proceedings in that suit including the said joint compromise memo has been obtained from that Court and has been placed on record.

6. In the aforesaid circumstances, the impugned order in O.R. No. 29/DF&WL/2023-24/498 dated 25.09.2023 issued by the First Respondent to the Petitioner is also set aside with a clarification that it would not preclude the Criminal Court from proceeding further against the Petitioner in accordance with law and no view is expressed by this Court on the merits of the controversy involved.

7. Mr. C.K.Chandrasekar, Learned Counsel for the Second Respondent, who has been nominated by the High Court Legal Services Committee for conducting the case today, shall be paid to the eligible amount of legal fees as per the extant Rules or Rs. 3,000/-, whichever is higher.



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WEB COPY In the result, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

Maya

To

Deputy Conservator of Forest
Department of Forest and Wildlife
Government of Puducherry
Forest Campus, Mudaliarpet
Puducherry.



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P.D. AUDIKESAVALU, J.

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