



W.P.(MD).No.18781 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.18781 of 2016

and

W.M.P.(MD)Nos.13570 of 2016, 17369 of 2018, 8715, 13367 of 2023,

K.Murugan

...Petitioner

Vs

1.The Revenue Divisional Officer,
Tirunelveli,
Tirunelveli District.

2.The Tahsildar,
Thiruvengadam Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in Na.Ka.A6/644/2016 dated 05.08.2016 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader



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ORDER

WEB COPY Heard Mr.R.J.Karthick, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, for the respondents.

2. This Writ Petition has been filed challenging the order of imposing a fine of Rs.1,00,000/- on the petitioner for cutting the Peepal tree which was 100 years old.

3. The learned counsel for the petitioner would submit that no notice or opportunity of hearing was granted to the petitioner and would further contend that the tree was not cut by the petitioner and the tree had withered due to its age and had fallen down naturally. Only to prevent causalities, the tree was removed and the action was taken mistakenly without issuing prior notice to the petitioner. To support his claim that the tree was withered, the learned counsel for the petitioner relied on a resolution passed by the Panchayat, which explicitly stated that the tree was withered. Without considering all these aspects and without giving an opportunity to the petitioner, the order of imposition of penalty had been levied on the petitioner. Therefore, he would submit that the order impugned herein cannot be sustained and the same is to be set aside.



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4. Countering his arguments, the learned Additional Government Pleader appearing for the respondents would submit that firstly, the tree in fact was a live tree and the contention that the tree was withered lacked supporting material facts. He would also submit that the Panchayat resolution relied upon by the petitioner actually referred to a "Fig tree", as a withered one. As President of the Panchayat, the petitioner had removed a live Peepal tree and therefore, he would submit that there is no error apparent in the order passed by the respondents. He further submitted that as President of the Panchayat, the petitioner had misused his authority by removing the Peepal tree for his personal benefit. The action of the petitioner had resulted in a financial loss to the Panchayat. If the remains of the cut tree had been left and sold through public auction, the Panchayat would have benefited financially. Instead, the petitioner's action in removing the tree resulted in unjust enrichment of the petitioner. As the President of the Panchayat, the petitioner should act fairly and diligently, and not in a manner that benefits himself. Therefore, he prays this Court to dismiss the Writ Petition.

5. I have considered the submissions made on either side and perused the materials available on record.



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6. The primary contention is that prior notice was not issued before the order was passed. However, it is pertinent to note that, as the President of the Panchayat, the petitioner ought to have been aware of the rules and regulations with regard to removal of trees, whether live or withered. As the President, the petitioner does not dispute removing the tree, rather, his claim is that the tree had withered. To substantiate his claim that the tree had withered, the petitioner relied on a resolution passed by the Panchayat authorizing the removal of the tree. From a reading of the said resolution, it is seen that the said resolution related to a 'Fig tree' and not a Peepal tree. Therefore, the same cannot be taken into consideration to hold that the removed tree was a withered tree. Further, the petitioner had also placed reliance upon the report from the Village Administrative Officer to Tahsildar, stating that on 27.06.2016 at about 07.00 p.m., a strong gust of wind caused the Peepal tree to fall onto an electrical line, which may endanger the public. Relying on the said report, the petitioner submits that he did not remove the tree, rather, it fell due to natural calamities. The report further reveals that the petitioner, along with another person, completely removed the tree, and the report estimates the value of the tree to be only Rs.500/-. But the report also indicates that the weight of the removed tree is equal to the weight of two load bullock carts. This fact itself suggests that the



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petitioner removed the tree for his personal benefit. As the President of the Panchayat, he ought to have brought the remains of the tree for a public auction and deposited the amount to the account of the Panchayat which he failed to do. Even assuming the petitioner's claim that he did not cut the trees, the report submitted by the petitioner himself clearly proves that he removed the trees for his own benefit, as it is evidenced by his failure to account for the value of the trees.

7. The authorities have assessed the value of tree at Rs.25,000/- and considering the undisputed fact that the tree was 100 years old, I am of the view that the value of the tree is indeed Rs.25,000/-. Moreover, the petitioner has not disputed the fact that the tree's value would be at Rs.25,000/-. However, considering the fact that no enquiry had been conducted and also taking into consideration the report submitted by the Village Administrative Officer to Tahsildar and although, the petitioner benefitted from the tree's remains, in my view the punishment imposed on the petitioner is somewhat harsh. Therefore, the punishment imposed on the petitioner is modified to the extent that the petitioner shall pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) (Value of Tree Rs.25,000 + penalty Rs.25,000), within a period of four weeks from the date of receipt of a copy of this order.



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WEB COPY 8. With the aforesaid direction, the Writ Petition is partly allowed.

No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

- 1.The Revenue Divisional Officer,
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Tirunelveli District.
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K.KUMARESH BABU, J.

Nsr

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