



W.P.(MD)No.24745 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.24745 of 2023

and

W.M.P.(MD)No.20928 of 2023

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... Petitioner

versus

1. The District Collector,
Theni District.
2. The Deputy Director,
Srivilliputhur – Megamalai Tiger Reserves,
Megamalai Zone,
Theni District.
3. The District Forest Officer,
KRR Nagar,
Housing Board Colony,
Theni District.
4. The Forest Range Officer,
Odaipatti Road,
Chiannamanur Post,
Theni District.



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5. The Tahsildar,
Uthamapalayam Taluk,
Theni District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to forbear the respondents 2 to 4 from restricting the petitioner's entry and exit through the estate road in S.Nos.85, 88, 91, 93 and 94 to reach his estate in S.Nos.95/18, 95/1E, 95/1D, 95/1V, 95/1R, 95/1Q, 95/1P, 95/1C and 95/1B, in Ersakkanayanur (Hill), in Uthamapalayam Taluk, Theni District.

For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

The petitioner is having certain lands in S.Nos.95/1S, 95/1E, 95/1D, 95/1V, 95/1R, 95/1Q, 95/1P, 95/1C, 95/1B in Ersakkanayanur (Hill), Uthamapalayam Taluk, Theni District and he is doing Cardamom plantation in the lands. For raising Cardamom plants and for transportation purpose, he is using a pathway in S.Nos.85, 88, 91, 93, 94, which also belong to him. The grievance of the petitioner is



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that the Forest Department is preventing him from accessing the pathway and therefore, he has filed this writ petition.

2. The learned counsel appearing for the petitioner submits that the lands in S.Nos.85, 88, 91, 93, 94 belong to the petitioner's estate and the petitioner has purchased these lands by way of registered documents, however, the respondent Forest Department is preventing the petitioner to use this lands as pathway to reach his estate in S.Nos. 95/1S, 95/1E, 95/1D, 95/1V, 95/1R, 95/1Q, 95/1P, 95/1C, 95/1B.

3. The learned Additional Government Pleader, on instructions submits that the lands in S.Nos.85, 88, 91, 93 are the lands which were assigned to people belonging to Scheduled Caste Community, on certain conditions and the petitioner has purchased the lands in violation of the assignment conditions. Therefore, action has been initiated by the fifth respondent/Tahsildar to cancel the assignments. He further submits that the subject area is in close proximity to Tiger



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Reserve and in the absence of any valid documents, the petitioner cannot use the subject property as his pathway.

4. The learned Additional Government Pleader further submits that the land in Survey No.95 of Ersakkanayanur Village was notified as Private Forest under the Tamil Nadu Preservation of Private Forests Act, 1949, vide G.O.Ms.No.679, Revenue Department, dated 25.07.1996, before the formation of Theni District and this survey number has been sub-divided as 95/1S, 95/1E, 95/1D, 95/1V, 95/1R, 95/1Q, 95/1P, 95/1C, 95/1B. All these lands come under the purview of Tamil Nadu Preservation of Private Forests Act and the Private Forest has to be treated only as Forest as per the orders of the Hon'ble Apex Court.

5. The learned Additional Government Pleader has also relied on the written communication received from the Tahsildar, Uthamapalayam wherein, he has stated that during the settlement



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proceedings in the year 1983, the lands in Survey Nos.95/1B, 95/1C, 95/1D, 95/1E, 95/1P, 95/1Q, 95/1R, 95/1S, 95/1V and other survey numbers, were registered as single land in Survey No.95/1 to an extent of 78.79.0 hectares, in the name of one Naiyanakkan and these lands have been declared as surplus lands and patta were issued to 29 persons, by proceedings of the Assistant Commissioner, Land Reforms, Madurai, dated 23.03.2021, to an extent of 2.50 acres with a condition that the assignee shall not dispossess the lands for a period of 20 years, but, the petitioner has purchased the lands from 9 persons and also obtained patta based on the sale deeds; since the lands have been sold violating the conditions, a report has been submitted to the Revenue Divisional Officer to take necessary action and the Revenue Divisional Officer is also conducting the enquiry in this regard.

6. This Court considered the rival submissions made and perused the materials placed on record.



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7. The 4th respondent has filed a counter affidavit stating that the subject lands have already been notified as Private Forest lands under the Tamil Nadu Preservation of Private Forests Act, vide G.O.Ms.No. 679, Revenue Department, dated 25.07.1996. Therefore, this Court is not inclined to grant any relief as sought for by the petitioner.

8. Accordingly, this writ petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2024

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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B.PUGALENDHI, J.

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