



W.P.(MD)No.2235 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.2235 of 2017
and
W.M.P.(MD)Nos.1855 to 1857 of 2017**

N.P.M.Krishnan

... Petitioner

-VS-

1. Government of Tamil Nadu,
Represented by the Principal Secretary to Government,
Department of Revenue,
Fort St. George,
Chennai - 600 009.
2. The Principal Secretary to Government,
Environment and Forests Department,
Fort St. George,
Chennai – 600 009.
3. The Principal Secretary to Government,
Department of Tourism, Culture and Charitable Endowments,
Fort St. George,
Chennai - 600 009.



W.P.(MD)No.2235 of 2017

- 4.The Principal Secretary to Government,
Department of Animal Husbandry,
Dairying and Fisheries,
Fort St. George,
Chennai - 600 009.
- 5.District Forest Officer
Tirunelveli District.
- 6.Executive Engineer,
Public Works Department,
Tirunelveli District.
- 7.The Chief Engineer,
Public Works Department,
St. George Fort,
Chennai - 600 009.
- 8.The District Collector,
Tirunelveli District,
Tirunelveli - 627 009.
- 9.The Managing Director,
Tamil Nadu Newsprint and Papers Limited,
Kagithapuram – 639 136,
Karur District.
- 10.Idols of Arulmigu Nellaiappar and
Arultharum Gandhimathi Amman,
Arulmigu Nellaiappar and
Arultharum Gandhimathi Amman Temple,
Tirunelveli,
Rep. by Executive Officer of the Temple.

... Respondents



W.P.(MD)No.2235 of 2017

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in G.O.Ms.No.36, on the file of the third respondent, dated 25.01.2016, quash the same as illegal, and consequently, to direct the 9th respondent to remove all the Eucalyptus plant saplings in the land property situated in Survey Nos.402/1, 353, 356, 359, 360/2, 419, 351, 360/1, 361/1, 361/3, 361/4, 401/3, 363/1, 363/3, 365, 366, 367, 368, 369, 370, 371, 373, 374, 376, 377, 379, 379/2, 382/A, 383/1, 383/3, 384/1, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400/1, 400/3, 401/1, 402/3, 403, 404, 405/1, 405/2, 406/1, 406/3, 407/1, 407/3, 408/1, 408/3, 409/1, 409/3, 410, 411, 412, 413, 414, 415, 416, 417, 418/1, 418/3, 420, 421, 422, 423/1, 423/3, 424/1, 424/3, 425, 427, 428, 430, 431 and 432 of Patta No.91 and Survey Nos.337/2, 338, 339, 341, 343/2, 344/1, 327, 318, 321, 322, 323/1, 323/3, 324/1, 324/2, 325/1, 325/3, 325/5, 326/1, 326/3, 328A, 328B, 329, 329/1, 329/3, 331/1, 331/3, 332, 333/1, 333/3, 335, 336, 346/1, 346/2, 346/3, 348/1A, 348/1B, 348/1L, 348/1M, 348/1P, 348/1S, 348/3 and 349 of Patta No.306, in an extent of about 1200 Acres in Paruthipadu Revenue Village, Nanguneri Taluk, Tirunelveli District.

For Petitioner	:	Mr.T.Lajapathi Roy, Senior Counsel for M/s.Lajapathi Roy and Associates
For R1 to R8	:	Mr.P.Thilakkumar Government Pleader
For R9	:	Mr.M.Ajmalkhan Senior Counsel for Mr.M.P.Senthil
For R10	:	Mr.S.Madhavan



W.P.(MD)No.2235 of 2017

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Prayer in the Writ Petition reads as follows:-

"To issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in G.O.Ms.No.36, on the file of the third respondent, dated 25.01.2016, quash the same as illegal, and consequently, to direct the 9th respondent to remove all the Eucalyptus plant saplings in the land property situated in Survey Nos.402/1, 353, 356, 359, 360/2, 419, 351, 360/1, 361/1, 361/3, 361/4, 401/3, 363/1, 363/3, 365, 366, 367, 368, 369, 370, 371, 373, 374, 376, 377, 379, 379/2, 382/A, 383/1, 383/3, 384/1, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400/1, 400/3, 401/1, 402/3, 403, 404, 405/1, 405/2, 406/1, 406/3, 407/1, 407/3, 408/1, 408/3, 409/1, 409/3, 410, 411, 412, 413, 414, 415, 416, 417, 418/1, 418/3, 420, 421, 422, 423/1, 423/3, 424/1, 424/3, 425, 427, 428, 430, 431 and 432 of Patta No.91 and Survey Nos.337/2, 338, 339, 341, 343/2, 344/1, 327, 318, 321, 322, 323/1, 323/3, 324/1, 324/2, 325/1, 325/3, 325/5, 326/1, 326/3, 328A, 328B, 329, 329/1, 329/3, 331/1, 331/3, 332, 333/1, 333/3, 335, 336, 346/1, 346/2, 346/3, 348/1A, 348/1B, 348/1L, 348/1M, 348/1P, 348/1S, 348/3 and 349 of Patta No.306, in an extent of about 1200 Acres in Paruthipadu Revenue Village, Nanguneri Taluk, Tirunelveli District."



W.P.(MD)No.2235 of 2017

WEB COPY

2. The Executive Officer of the Arulmigu Nellaiappar and Arulthraum Gandhimathi Amman Temple, Tirunelveli, had, by his letter dated 26.11.2013, sought for permission from the Joint Commissioner, H.R. & C.E. Department, Tirunelveli, to grow two species of eucalyptus trees in about 1711 Acres of land belonging to the Temple situate at Thenkulam and Paruthipadu Villages of Nanguneri Taluk, Tirunelveli District, in collaboration with the Tamil Nadu Newsprint and Papers Limited [TNPL] / the 9th respondent in the Writ Petition.

3. The Commissioner, H.R. & C.E. Department, had addressed the Government, seeking permission for growing eucalyptus trees in the lands in question in collaboration with the 9th respondent on 12.12.2014. Such permission was granted by the Government, vide G.O.(Ms)No.36, Tourism, Culture and Religious Endowments Department, dated 25.01.2016. Consequent upon such permission granted under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 [hereinafter referred to as "the H.R. & C.E. Act"], the Commissioner, H.R. & C.E. Department, by his proceedings dated 14.02.2016, permitted the Executive Officer to grow eucalyptus trees in the lands situate at Thenkulam and Paruthipadu Villages of Nanguneri Taluk. This was to



W.P.(MD)No.2235 of 2017

be done on a profit-sharing basis, where the TNPL (9th respondent) would plant and grow the eucalyptus plant saplings. The Temple was to receive 30% of the proceeds from the sale of the trees and the 9th respondent was to take the remaining 70%. The petitioner is challenging this decision.

4. The main grievance of the petitioner is that there was no permission obtained from the Government and that the growing of eucalyptus trees in such vast extent of lands would result in depletion of groundwater in the area, which is already a water-starved area and the other consequence would be the cattle in the area will be left without any land for grazing.

5. Upon notice, the respondents have filed independent counter affidavits. The 9th respondent has filed a detailed counter affidavit and the other respondents, namely, the respondents 1, 3, 5, 6, 8 and 10 have filed independent counter affidavits.

6. We have heard Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the petitioner; Mr.P.Thilakkumar, learned Government Pleader appearing for



W.P.(MD)No.2235 of 2017

the respondents 1 to 8; Mr.M.Ajmalkhan, learned Senior Counsel appearing for Mr.M.P.Senthil, learned counsel for the 9th respondent; and Mr.S.Madhavan, learned counsel appearing for the 10th respondent Temple.

7. While Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the petitioner would reiterate the averments made in the affidavit filed in support of the Writ Petition and contend that the Nanguneri Taluk is already a water-starved area and if the respondents are allowed to grow eucalyptus trees, which is generally known to consume lot of water, it will have very great impact on the ecological system of the area. He would also point out that the Commissioner, H.R. & C.E. Department did not obtain the permission of the Government to enter upon such cultivation.

8. Contending contra, Mr.M.Ajmalkhan, learned Senior Counsel appearing for Mr.M.P.Senthil, learned counsel for the 9th respondent would submit that all permissions required have been obtained and the lease was granted only after following the due procedure of law. In order to emphasize that the due procedure of law has been followed in entering into an agreement for cultivation



W.P.(MD)No.2235 of 2017

of eucalyptus trees in collaboration with the 9th respondent, the learned Senior Counsel would also draw our attention to the order passed by the Commissioner, H.R. & C.E. Department, on 14.02.2016, which details the procedure that was followed prior to the grant of the lease.

9. The learned Senior Counsel would also point out that the general apprehension that the eucalyptus trees would consume more water than the others is incorrect. In support of his submissions, the learned Senior Counsel would rely upon the order of the National Green Tribunal, Principal Bench at New Delhi, dated 20.07.2015, made in Original Application No.9 of 2014 and M.A.Nos. 79, 265 and 501 of 2014, wherein this issue was specifically considered and ultimately, the National Green Tribunal, New Delhi, found that regular crops like, cotton, coffee, bananas, sunflower, paddy, horse bean, cow pea, soya bean and potato consume more water than the eucalyptus trees. He would also point out that as per the research that was conducted, the roots of the eucalyptus trees do not penetrate underground beyond two to three meters and therefore, the theory that it consumes more water may not be correct.

10. With reference to the two particular varieties of eucalyptus trees that are to be grown in the area are concerned, the learned Senior Counsel would



W.P.(MD)No.2235 of 2017

submit that these two varieties consume less water than the other varieties. He would therefore implore us to dismiss the Writ Petition on the ground that the Writ Petition has been filed on the basis of a misapprehension.

11. Mr.P.Thilakkumar, learned Government Pleader appearing for the respondents 1 to 8 would draw our attention to G.O.(Ms)No.113, Public Works (R2) Department, dated 09.06.2016, to submit that the entire Nanguneri Taluk is not shown to be water-starved area. In fact, the tabular column annexed to the said Government Order would show that the entire Nanguneri Taluk is classified as a safe zone, where exploitation of ground water is less than 70%. A report by Dr.V.Sivakumar, a Scientist in the Division of Genetics and Tree improvement, Institute of Forest Genetics and Tree Breeding, Coimbatore, is also relied upon to show that the two varieties of eucalyptus trees that are grown in the plains, cannot be termed as invasive species and they consume less water than the others.

12. Mr.P.Thilakkumar, learned Government Pleader would also draw our attention to the report of the Indian Council of Forestry Research and Education [ICFRE], Dehradun, regarding effect of eucalyptus plantation on ground water



W.P.(MD)No.2235 of 2017

table, which concludes that the eucalyptus trees extracted water mainly from the upper soil layers (50cm depth) and the deeper soil layer remained unaffected.

13. Mr.S.Madhavan, learned counsel appearing for the 10th respondent Temple would submit that the lease was granted only after considerable study both by the 10th respondent and the 9th respondent and hence, there is no merit in the Writ Petition.

14. We have considered the rival submissions.

15. The facts that we have narrated above would show that all necessary permissions were obtained prior to the cultivation of eucalyptus trees in the lands in question. In fact, the State Government has authorized the lease and the Commissioner, H.R. & C.E. Department has also granted permission under Section 34 of the H.R. & C.E. Act. In fact, there is possibility of some surplus income for the Temple, if the activity is carried on. It has been demonstrated that all necessary permissions that are required have been obtained by the authorities before grant of the licence to cultivate eucalyptus trees in the lands belonging to the 10th respondent Temple.



W.P.(MD)No.2235 of 2017

WEB COPY

16. As regards the depletion of natural resources, namely, water, we find that sufficient material has been placed to demonstrate that cultivating eucalyptus trees in the plains is less harmful than growing it in the hills. The report of the ICFRE, Dehradun, shows that it actually consumes lesser water than many other crops. It is also seen that the roots do not penetrate beyond three meters. Therefore, the belief that eucalyptus trees will consume lot of water appears to be a myth.

17. The Principal Bench of the National Green Tribunal, New Delhi, has taken pains to consider the water consumed by various trees and crops and after tabulating the various crops and trees, it has found that eucalyptus trees occupies the last but one position in the consumption of water, which very clearly points out that the cultivation of eucalyptus trees in the plains, would be advantageous, as the tree grows very fast and has much more biomass, which can be used for producing paper, which is also an essential commodity.

18. G.O.(Ms)No.113, Public Works Department, dated 09.06.2016, also shows that the entire Nanguneri Taluk is a safe zone as far as groundwater level is concerned. The apprehension of the petitioner that the cattle and other domestic



W.P.(MD)No.2235 of 2017

animals in the area would lose their grazing ground if eucalyptus plant sapling is cultivated though appears very attractive at the first blush, does not appear to be a weighty reason to enable this Court to interfere with the decision taken by the authorities to cultivate eucalyptus trees in the lands in question. Even after these trees have grown, there will be some vegetation in between them and definitely, cattle can graze in the said vegetation. Preservation of ecology and environment is also a must, but at the same time, we must also ensure that sustainable development takes place and an attempt should be made to balance the two. We cannot afford to forego either environment or sustainable development and in doing the balancing act, we will have to weigh the pros and cons of the executive action, which forms the basis for these Public Interest Litigations.

19. We have examined the various proceedings of the Government, Commissioner, H.R. & C.E. Department and the Executive Officer of the Temple. We find that the requirements of law namely, Section 34 of the H.R. & C.E. Act, have been met in full. Having addressed compliance with the statutory provisions, the next question is the impact of the decision.



W.P.(MD)No.2235 of 2017

WEB COPY

20. From the records that have been placed before us, we find that the apprehension of the petitioner that the cultivation of eucalyptus trees, specifically, the two varieties namely, E.camaldulensis and E.tereticornis would result in depletion of water resources, has not been substantiated. Hence, we see no reason to interfere with the order impugned in the Writ Petition. The Writ Petition therefore fails and it is accordingly dismissed. No costs. However, we make it clear that in future, if the respondents planned to cultivate eucalyptus plant saplings in the plains, they shall do it only after carrying out an impact assessment survey through the Water Resources Organization and the Environment, Climate Change and Forests Department. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes
Index : Yes
smn2

[R.S.M., J.] [L.V.G., J.]
04.09.2024

To:-

- 1.The Principal Secretary to Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai - 600 009.



W.P.(MD)No.2235 of 2017

- 2.The Principal Secretary to Government,
Environment and Forests Department,
Fort St. George,
Chennai – 600 009.
- 3.The Principal Secretary to Government,
Department of Tourism, Culture and Charitable Endowments,
Fort St. George,
Chennai - 600 009.
- 4.The Principal Secretary to Government,
Department of Animal Husbandry,
Dairying and Fisheries,
Fort St. George,
Chennai - 600 009.
- 5.The District Forest Officer
Tirunelveli District.
- 6.The Executive Engineer,
Public Works Department,
Tirunelveli District.
- 7.The Chief Engineer,
Public Works Department,
St. George Fort,
Chennai - 600 009.
- 8.The District Collector,
Tirunelveli District,
Tirunelveli - 627 009.
- 9.The Managing Director,
Tamil Nadu Newsprint and Papers Limited,
Kagithapuram – 639 136,
Karur District.



W.P.(MD)No.2235 of 2017

10. The Executive Officer,
Idols of Arulmigu Nellaiappar and
Arultharum Gandhimathi Amman,
Arulmigu Nellaiappar and
Arultharum Gandhimathi Amman Temple,
Tirunelveli.



WEB COPY



W.P.(MD)No.2235 of 2017

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

smn2

W.P.(MD)No.2235 of 2017

04.09.2024