



W.P.(MD) No.27937 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.27937 of 2024

WMP.No.23698 of 2024

Mr.B.Ravi Raja

... Petitioner

/vs./

- 1.Ministry of Environment, Forests and
Climate Change, Indira Paryavaran Bhavan
Jorbagh Road, New Delhi – 110 003.
- 2.Government of Tamil Nadu,
Rep., by the Chief Secretary,
Fort St., George,
Chennai – 600 009.
- 3.Principal Chief Conservator of Forests,
Department of Forests, Govt., of Tamil Nadu,
No.1, Panagal Building, Jenis Road,
Saidapet, Chennai – 600 015.
- 4.District Collector,
Kanyakumari District.
Nagercoil – 629 001.
- 5.Head of District Forest Committee,
Kanyakumari District,
Nagercoil – 629 001.



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- 6.The President,
Balmore Panchayat Union, Balmore,
Maramalai, Pin: 629 851
Kanyakumari District.
- 7.District Forest Officer,
Nagercoil,
Kanyakumari District – 629 001.
- 8.Conservator of Forests,
Tirunelveli Circle, NGO Colony,
Tirunelveli – 627 007.
- 9.Assistant Conservator of Forests/In-Charge Ranger,
Office of the Forest Ranger,
Azhagiapandiapuram – 629 851,
Kanyakumari District.
- 10.The Forester,
Azhagiapandiapuram – 629 851,
Kanyakumar District.
- 11.Tamil Nadu Wilderness Corporation,
6th Floor, Panagal Maaligai,
Jeenis Road, Saidapet,
Chennai – 600 015.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to consider the petitioner's representation, dated 03.07.2024 and to direct the respondents 4 and 5 to give positive sanction for the pathway and water pipe line exercise which is capable of doubling up as a fire line within the petitioner's patta land comprised in S.No.583/1A1 under patta No.1407 under serial No.103 in Surulode village, Maramalai, Kalakulam Circle – Kanyakumari District.



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For Petitioner : Mr.Sudharshana Sunder

For Respondents : Mr.R.Suresh Kumar AGP for RR2 to R5 & 7 to 10

Mr.P.Paul Pandi Senior Panel counsel for R1

Mr.P.Thambithurai GA for R6

ORDER

This Writ Petition had been filed seeking for a Mandamus to direct the respondents to consider the representation of the petitioner dated 03.07.2024 and to give a positive sanction to the pathway and to lay the water pipeline which is capable of doubling the fire-line within the petitioner's patta land.

2. Heard Mr.Sudharshana Sunder, learned counsel appearing for the petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents RR2 to R5 & 7 to 10, Mr.P.Paul Pandi learned Senior Panel counsel appearing for the first respondent and Mr.P.Thambithurai learned Government Advocate appearing for the sixth respondent.

3. The learned counsel for the petitioner would submit that the petitioner was originally granted permission to lay the pipeline within the patta land of the petitioner on certain condition. The said permission was granted by the District



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Forest Committee in its proceedings dated 23.10.2021. As per the said permission granted, the petitioner was given two years time ending on 22.10.2023. However, the Forest Department have not permitted the petitioner to lay the water line on the pretext that there is no delineation of the petitioner's patta land and the reserve forest. Hence, the petitioner had approached this Court in W.P.(MD).No.8617 of 2022. The said Writ Petition was stoutly contended by the ninth respondent herein and this Hon'ble Court by its order dated 18.08.2022 had issued a Mandamus forbearing the respondents 5 & 7 therein who are also the respondents 9 & 10 herein from interfering with the petitioner's right to lay the pipelines for which the permission was accorded to by the District Forest Committee on 23.10.2021. When the petitioner had attempted, the petitioner was not able to lay the pipeline due to the inclement weather and when the petitioner attempted to lay the pipeline, the same was objected by contending that the permission granted has expired and therefore, the petitioner has to again approach the District Forest Committee for laying the pipeline. The learned counsel would contend that the said period of two years granted by the District Forest Committee would have to be extended from the date of the order passed in W.P.(MD).No.8617 of 2022 and therefore the time



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limit would be available to the petitioner till August 2024. As again there was an intrusion to the right of the petitioner, he had filed the present Writ Petition.

4. He would further submit that the petitioner had also made a representation on 03.07.2024 to permit the petitioner to lay the fire line within the land situated within his patta land and the said representation is also pending consideration by the respondents. He would also submit that the forest had also been declared as trekking area by the Principle Secretary of the Government and Forest Department and hence, there would be no prejudice caused to the respondents in allowing the petitioner to lay the fire line as requested. Hence, he would seek the Mandamus as prayed for.

5. Countering his arguments, the learned Additional Government Pleader would submit that the time-line given by the District Forest Committee to lay the pipeline had expired long ago. Further, the petitioner would have to approach the District Forest Committee for extension of time of permission to lay the pipeline, the same had also been indicated in the permission granted by the District Forest Committee. Without approaching the District Forest Committee for extension of time, the petitioner cannot now seek for a



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Mandamus. He would further submit that the prayer sought for in the Writ Petition is for laying of pathway and also for fire line by considering the representation of the petitioner. He would further submit that the petitioner had only submitted his representation for laying the fire line within the petitioner's patta land. He would submit that laying of fire line would destruct the flora and fauna of the forest land and the petitioner in that process would have to remove the trees and its vegetation that is available in the land. Further, he would submit that the area had been declared, as reserve forest under the Provisions of Section 16 of the Forest Act and the same have also notified the admitted rights based upon Forest Settlement Officer's recommendation. When the same had been declared so, the petitioner cannot seek to modify the admitted rights under the Government order which had been made after following various provisions of the Forest Act and therefore, even seeking for a Mandamus to consider the representation cannot be entertained as it could go against the declaration of the reserve forest in which the petitioner's private land is situated. Therefore, he seeks for dismissal of the Writ Petition.



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6. I have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials available on record.

7. Admittedly the permission had been granted to the petitioner to lay the pipeline in his private patta land situated in the reserve forest area. In view of the certain objections that had been raised by the Forest Department, the said permission could not be fully utilized by the petitioner. He had also approached this Court and this Court by its order dated 18.08.2022 in W.P.(MD).No.8617 of 2022 had issued a Mandamus forbearing the respondents 9 & 10 from interfering with the rights of the petitioner for laying the pipeline. Even as of today, he has not laid the pipeline in view of the objection raised by the Forest Department. When the objections had been raised by the Forest Department, the Forest Department ought to have brought to the notice of the District Forest Committee of its objections. It is to be noted that the representative of the Forest Department was also a Member of the District Forest Committee. In such a situation, the objections raised are only to reckoned as being made without any materials and that too in light of the order of this Court in the said Writ



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Petition, the petitioner ought to be permitted to lay the pipeline in compliance with the permission granted by the District Forest Committee and he need not be forced to get a fresh permission. As it was only on the objection made by the Forest Department, the petitioner was unable to complete the work. The learned counsel for the petitioner had sought three (3) months time from the date of receipt of a copy of this order to complete the laying of pipeline.

8. The further Mandamus that has been sought for by the petitioner is to lay a pathway and fire line. It is to be noted that the subject land had been declared as reserve forest and claims has been decided and declaration made Section 16 of the Indian Forest Act, 1927. Such a declaration has been made after the Forest Settlement Officer had decided the various claims of the forest dwellers, private patta land holders and others. Against the decision of the Forest Settlement Officer, appeal had also been provided before the Tribunal and only thereafter the declaration under Section 16 is made. When the area is declared as reserve forest, the said Government Orders also indicates the admitted rights in respect of the persons based upon the orders of the Forest Settlement Officer and the Appellate Tribunal in that regard. When that being



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so, if the request of the petitioner to lay the pathway and fire line as sought for in the Writ Petition is permitted, the same would intrude into the declaration made under Section 16 of the Indian Forest Act, which cannot be permitted by this Court.

9. In fine, this Writ Petition is allowed in part permitting the petitioner to lay the pipeline as permitted by the District Forest Committee in its order dated 23.10.2021. The petitioner shall complete the laying of the water pipeline by 31.03.2025. As regards to the claim for issuance of Mandamus to the respondents to permit the petitioner to lay the pathway and the fire-line based on the representation of the petitioner dated 03.07.2024 is rejected. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
gba

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Note. Issue order copy on 16.12.2024.



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To

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