

W.A.(MD)No.412 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.03.2025

PRONOUNCED ON : 03.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.412 of 2025
and
C.M.P.(MD)No.3212 of 2025

The Deputy Director,
Office of the Deputy Director,
Srivilliputhur Megamalai Tiger Reserve,
Megamalai Kottam,
Theni ... Appellant

Vs.

1.K.Ajay

2.The District Collector,
Theni District. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.14734 of 2024, dated 04.07.2024.

For Appellants	:Mr.Veera Kathiravan Additional Advocate General assisted by M/s.D.Farjana Ghoushia Special Government Pleader
For R1	:Mr.N.Dilip Kumar
For R2	:Mr.J.Ashok Additional Government Pleader



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JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is filed against the order dated 04.07.2024 passed in W.P.(MD)No.14734 of 2024.

2. The writ petition was filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned proceedings dated 18.03.2024 and consequently to direct the respondents to permit the writ petitioner to transport materials to carry out minor repair work in Directors quarters and workers quarters.

3. The brief facts of the case are that the writ petitioner is having an estate near Vellimalai region. Due to heavy downpour of rain, the roofs of labour quarters office building and guest house have been damaged which requires immediate repair. Hence, the writ petitioner submitted a request, dated 09.10.2024, to permit to transport materials to repair the damaged buildings. In response to the same, the Deputy Director of Srivilliputhur Megamalai Tiger Reserve returned the request and stated that Vellimalai region is coming within



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the purview of Tamil Nadu Preservation of Private Forests Act, 1949 and Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955. Hence, the request ought to be submitted to the committee headed by the District Collector. Aggrieved over the said communication, the writ petition was filed.

4. After considering the rival submissions, the Writ Court directed the District Collector to accord suitable permission within a period of one week. Aggrieved over the same the Deputy Director of Srivilliputhur Megamalai Tiger Reserve has preferred the present appeal.

5. The learned Additional Advocate General appearing for the appellant submitted that the 1st respondent herein / writ petitioner is seeking permission to do construction activity and the said land are notified as private forest and are coming within the purview of Tamil Nadu Preservation of Private Forests Act, 1949. Therefore, the appropriate authority is the Committee headed by the District Collector. It is seen that the Writ Court has *suo motu* impleaded the District Collector and has directed him to accord permission, but the District Collector is not the appropriate authority at all. Even though the District Collector is heading the Committee but the District Collector in his capacity as District



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Collector cannot grant permission, it is the Committee's decision. Therefore, the Court is of the considered opinion the direction of the Writ Court is erroneous.

6. The next contention of the appellant is that if any activity ought to be carried out in the private forest, then the provisions of the Tamil Nadu Preservation of Private Forests Act, 1949 is applicable and under section 3 of the Act the previous sanction is necessary. In order to consider the same, the relevant provision is extracted hereunder:

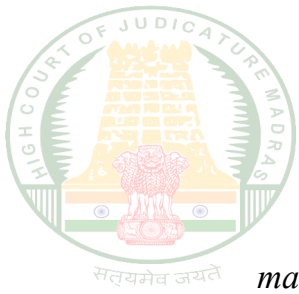
"3. Preservation of private forests:- (1) (a) No owner of any private forest shall, without the previous sanction of the Committee sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

Explanation: Nothing in the sub-section can be construed as preventing the owner from selling or otherwise dealing with the right together and remove forest product other than ¹[trees, timber and reeds] in the usual or customary manner for a period of exceeding two years.

*²(b) Any alienation in contravention of clause(a) shall be null and void-
(i) If the alienation of any forest declared by ³[the District Collector] to be a forest under clause (iii) of section 1(2) or of any portion of such a forest and is made on or after the date on which the declaration takes effect;*

(ii) ⁴[.....]

(iii) If the alienation of any forest or any portion of such a forest, and is



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made on or after the 16th August 1946.]

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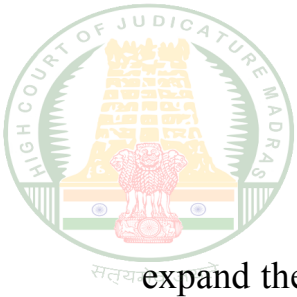
⁵[(2) No owner of any forest and no person claiming under him, whether by virtue of a contract, license or any other transaction entered into before or after the commencement of the Tamil Nadu Preservation of Private Forests Act, 1946, or any other person shall without the previous permissions of the [Committee] ⁵[(a) **cut trees or reeds**) (b) **do any Act likely to denude the forest or diminish its utility as food.**

Provided that nothing contained in this sub-section shall apply to the removal of dead or fallen trees or to any act done for the usual or customary domestic purposes or for making agricultural implements.]

(3) Notwithstanding anything contained in the sub-section (1) or sub-section

(2) the ⁶[State Government] may exempt any forest or class of forest or class of trees there in from all or any of provisions of this section.”

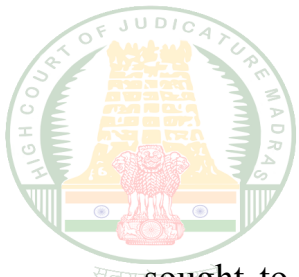
The Learned Additional Advocate General especially relied on the sub clause 2 “(b) **do any Act likely to denude the forest or diminish its utility as food**”, which states if it is affecting the trees and the forest, the permission is necessary. Now it ought to be seen whether the permission sought for by the petitioner would come within the purview of the above clause. In the present case, the writ petitioner is not intended to put up any new construction, he is not going to



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expand the existing construction, he is intended to replace the damaged tiled roof, he is intended to do repairs works in some parts of the building which are damaged due to wear and tear and for which he is seeking permission to transport the materials to replace and do repair works. If the above works are carried on it will not “denude the forest or diminish its utility as food”, therefore permission from the Committee is not necessary. Therefore, the appellant cannot deny permission by relying on the said Rule. It is pertinent to state that the writ petitioner is permitted to access the quarters daily for other activities. At the cost of repetition it is only for the purpose of repair works the petitioner is seeking permission to carry the materials necessary for repair works and the same will not denude the forest or diminish its utility as food.

7. As held supra the Court is of the considered opinion that the District Collector is one of members of the Committee and he is heading the committee, therefore, the District Collector in the capacity of District Collector is not having power to accord permission. On the same breath, the Court is of the considered opinion that the committee ought to consider, whenever someone is seeking permission to fell the trees or damage the forest, in such circumstances, permission of the committee is necessary and not otherwise. The activity that is



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sought to be carried out is only repair work in the Directors quarters and staff quarters, therefore previous permission from Committee is not necessary.

Therefore, the appellant is the authority to grant permission and the appellant may seek information and impose any conditions to carry out the said work. The appellant may seek the following particulars and also may add to the following list:

- “1. No. of rooms, offices, quarters, guest house in which repair work is to be carried out.*
- 2. Nature of repairs to be carried out.*
- 3. Details of labourers / persons to be involved in this work.*
- 4. Category of materials required for repairs.*
- 5.Quantity of such materials.*
- 6.Mode of transport and number of vehicles likely to be used (with vehicle numbers).*
- 7. No. of days required to repair.*
- 8. No. of days required for vehicle movement.”*

8. The writ petitioner is directed to furnish the above particulars and any other additional particulars to the appellant. The petitioner may be directed to declare the materials and also may allow to check the petitioner at the check post. The construction shall be completed within a period of 30 days from the date of



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सत्यम् receipt of a copy of this judgment.
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9. With the above observations, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
03.06.2025

Index : Yes / No

Tmg

To:

1.The Deputy Director,
Office of the Deputy Director,
Srivilliputhur Megamalai Tiger Reserve,
Megamalai Kottam,
Theni.

2.The District Collector,
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