



W.P.(MD).No.6231 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2025

CORAM:

THE HONOURABLE **MR.JUSTICE VIVEK KUMAR SINGH**

W.P.(MD)No.6231 of 2025

and

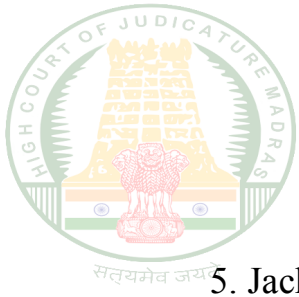
W.M.P.(MD)No.4584 & 4585 of 2025

M/s.Vaira Vibinam (P) Limited Co.,
Represented by one of its Directors,
P.Narendran.

... Petitioner

-VS-

1. The Union of India,
Represented by its Secretary,
Ministry of Environment,
Forest and Climate Change,
Indira Paryavarn Bhavan,
Jorbagh Road,
New Delhi 110 003.
2. The Additional Principal Chief Conservator of Forest (FC),
O/o. the Principal Chief Conservator of Forest,
Velachery Road, Guindy,
Chennai 600 032
3. The District Forest Officer and Wildlife Warden,
Tirunelveli Division,
NGO 'A' Colony North Main Road,
Tirunelveli - 627 007.
4. The Forest Ranger,
Sivagiri Forest Range Office,
Tirunelveli Forest Division,
Tenkasi District.



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5. Jackson,
Forester,
Sivagiri Forest Range Office,
O/o. Sivagiri Forest Range Officer,
Tirunelveli Forest Division,
Tenkasi District.

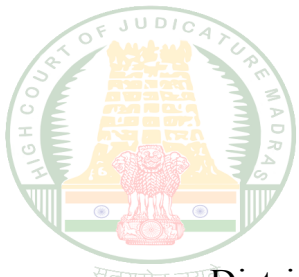
6. Pradeep,
Forest Guard,
Sivagiri Forest Range Office,
O/o. Sivagiri Forest Range Officer,
Tirunelveli Forest Division,
Tenkasi District.

7. Mariappan,
Forest Watcher,
Sivagiri Forest Range Office,
O/o. Sivagiri Forest Range Officer,
Tirunelveli Forest Division,
Tenkasi District.

8. S.P.Balasubramaniya,
Anti Poaching Watcher,
Sivagiri Forest Range Office,
O/o. Sivagiri Forest Range Officer,
Tirunelveli Forest Division,
Tenkasi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from denying the petitioner, his family members, servants and labourers from using vehicular transport along the existing mamool pathway or coupe mud road to gain access of the petitioner's patta Estate lands known as “Elatheri Estate” from the entry point namely Sivagiri Forest Check post in Sivagiri Taluk leads up to Elatheri Estate in S.Nos. 920, 921, 922, 923, 924 of Sivagiri Taluk, Tenkasi



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District by considering the representation sent by the petitioner dated 04.12.2024.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.P.Paulpandi (R1)

Central Govt. Standing Counsel

Mr.K.S.Selvaganesan (R2 & R3)

Addl. Govt. Pleader

ORDER

The instant writ petition has been filed to forbear the respondents from denying the petitioner, his family members, servants and labourers from using vehicular transport along the existing mamool pathway or coupe mud road to the petitioner's patta Estate lands known as “Elatheri Estate” from the entry point namely Sivagiri Forest Check post in Sivagiri Taluk leading up to Elatheri Estate in S.Nos. 920, 921, 922, 923, 924 of Sivagiri Taluk, Tenkasi District, by considering the representation sent by the petitioner dated 04.12.2024.

2. Heard the learned counsel on either side. Since no adverse order is going to be passed against the private respondents in this writ petition, notice to them is dispensed with.



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3. The case of the petitioner is that the petitioner is the owner of the subject property and it is bounded by the reserved forest land comes within the jurisdiction of Tirunelveli Forest Division with the pathway access to the width of 2.0 mtrs., from the plain land ie., from the Forest Check post of Sivagiri Forest Range, Tenkasi District. From the date of purchase of the land, some illegal minded officials are not allowing ingress and egress to the Estate, called “Elatheri Estate”. It is also ascertained by the second respondent that the said estate is enclosure to Sivagiri Reserved Forest and it has an admitted pathway for a width of 1.50 mtrs. The petitioner is performing organic farming aims to conserve the environment, for which the petitioner has engaged 88 employees in the estate, out of which 65 are permanent and 20 to 25 are temporary employees.

4. The further case of the petitioner is that the employees of the petitioner and others are struggling without proper road by means of motorable transport facility and the respondents 5 to 8 illegally started to prevent all labours to enter into the forest carrying loads on their heads while riding two-wheelers, within the limits of the petitioner estate. The respondents 1 to 4 have to give pathway right by expanding and permitting the employees to use motorcycle for the estate activities and its welfare, since



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the width of the pathway even according to the Forest Department is 1.5 mtrs.

The petitioner made a representation on 14.09.2023 to the respondents 1 to 3.

However, the same has not been considered. Therefore, the petitioner filed this writ petition seeking for right of pathway by means of motorable transport facility.

5. The learned counsel appearing for the petitioner submits that if the vehicles are not permitted to use for the ingress and egress of the estate, it will be very difficult for the employees of the estate and if the employees fall sick and suffered snakebite, it is very difficult for them to reach even the nearest hospital. Hence, he prayed that the prayer sought for by the petitioner can be considered which would benefit the petitioner and its employees.

6. On the contrary, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would submit that the labourers are also not residing there as claimed by the petitioner. He would further submit that there is no existing motorable pathway as claimed by the petitioner. He would submit that the petitioner continue to access their lands only on foot.



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7. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would further submit that a similar prayer in a Writ Petition in W.P.(MD).No.22037 of 2017 was made and this Court had directed the respondents to consider the claim of the petitioner therein dated 03.10.2017 and pass appropriate orders. This Court after hearing the parties concerned and after analysing the various orders and the orders passed by the Hon'ble Apex Court had held that there is no infirmity in the permission granted for movement of materials only by head load and not to use any motorable vehicles. The learned Judge had held that any intrusion into the forest area in any manner will disturb and affect the flora and fauna and its natural habitat.

8. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would also rely upon the judgment of the Hon'ble Division Bench of this Court made in W.P.(MD).Nos.6683 & 7161 of 2010 dated 01.11.2018 and he would submit that the petitioner challenging the notification issued by the Government declaring the area as a Reserve Forest and which area was proposed to be a Tiger Reserve Forest had in clear terms held that in such an event, the Government cannot be directed to consider the request of the petitioners for a motorable road way and advised that their



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existing right would only be protected and which has also been conferred under the said notification i.e., the petitioners therein was entitled to use only one meter pathway and nothing more. He would submit that the Hon'ble Division Bench had weighed the public interest over the private interest.

9. The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would submit that similar litigation have been initiated by various persons and such persons have also been unsuccessful. He would submit that another attempt was also made by a group of persons to enter the Reserve Forest using a light motor vehicle endangering flora and fauna etc. He would further submit that it is not only the duty of the Government, it is also the duty of the private individuals to protect the flora and fauna of the forest that too a reserved forest declared to be a 'Tiger Reserve', which is endangered and found inside the flora and fauna, which will also endanger their very existence, if the vehicles are permitted to be used inside the Forest. Hence, he would seek dismissal of the writ petitions filed by the petitioners.

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



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11. The Writ Petitioner had sought for a right to use the pathway by using the light motor vehicle. The Government has declared Sivagiri Forest to be a Reserve Forest. The Government in G.O(MS).No.21, Forests and Fisheries, dated 08.01.1980 declaring various survey numbers in Sivagiri Independent Sub Taluk, Sankarankovil Taluk, Tirunelveli District, to be a Reserve Forest.

12. A Hon'ble Division Bench of this Court, while dealing with the similar issue, ie., the claim of the petitioner with reference to the pathway that was held to be the admitted rights is only to a pathway measuring only 1.5 meter and weighing the public interest over the private interest had held that the Court cannot pass an order leading to the destruction of forest at the instance of the persons, who are seeking to expose their private interest.

13. It is pertinent to note that the Government in G.O.Ms.No. 12, Environment and Forests (FR.5), 4th February 2015 had declared the range to be Reserved Forest in Tirunelveli District as 'Nellai Wild Life Sanctuary' under the Wild Life (Protection) Act. A reading of the said Government order would also indicate that the Government had notified certain extent of area as Nellai Wild Life Sanctuary as early as in the year 1980.



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14. After considering the various factors, particularly, the importance of flora and fauna of the area, the Government had resolved to issue a notification under the Wildlife Protection Act, 1972 declaring the said area to be a Reserve Forest. Under the said Government orders, boundaries have been fixed and admittedly the lands belonging to the petitioner fall within the said boundary. The said Government order also envisages the admitted rights in Annexure to the said Government order including the right of pathway such as National Highways, State Highways, Estate Rules, E.B.Rules, etc. The said admitted rights do not include the pathway that is claimed by the petitioner. The pathway had already been notified under the earlier Government order declaring the Nellai Wild Life Sanctuary.

15. Even assuming that the said pathway declared under the said Government order is also extendable to the admitted rights in the present Government order, the Hon'ble Division Bench of this Court discussed supra indicates that when the right of pathway notified under the earlier Government order is only a one meter wide pathway, the petitioner cannot seek to claim the right of using the pathway as motorable road.



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16. When the Government order in Government in G.O(MS).No.21, Forests and Fisheries, dated 08.01.1980 in which the Nellai Wild Life Sanctuary was notified giving of rights of pathway which had been held to be only 1.5 mtr., in width, the petitioner cannot claim the right of a motorable pathway using the light motor vehicle which would be more than one meter in width, that too, particularly, when the entire area had been now notified as a Reserve Forest. Hence, I do not find any merits in this Writ Petition to entertain even to grant of a Mandamus to consider their petition filed by the petitioner in the year 2022.

17. For the aforesaid findings and reasonings, I do not find any merits in this Writ Petition and accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.03.2025

NCC : Yes/No
Index : Yes / No
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WEB CUTO:-

1. The Additional Principal Chief Conservator of Forest (FC),
O/o. the Principal Chief Conservator of Forest,
Velachery Road, Guindy,
Chennai 600 032
2. The District Forest Officer and Wildlife Warden,
Tirunelveli Division,
NGO 'A' Colony North Main Road,
Tirunelveli - 627 007.



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VIVEK KUMAR SINGH, J.

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Order made in
W.P.(MD)No.6231 of 2025

Dated:
07.03.2025