



W.P.(MD)No.20893 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD)No.20893 of 2017

and

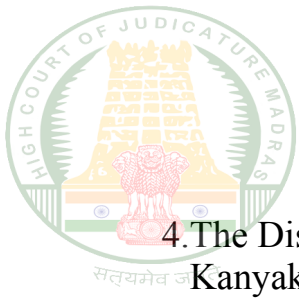
W.M.P.(MD)No.17200 of 2017

T.P.David Dhas

... Petitioner

Vs.

- 1.Union of India,
Rep., by its Secretary,
Ministry of Forest and Environment,
3rd Floor, Prithvi Wing,
Indira Parvayaran Bhawan,
New Delhi-110003.
- 2.The Government of Tamil Nadu,
Rep., by its Principal Secretary,
Department of Environment and
Forests Department,
Secretariat, Chennai-9.
- 3.The Principal Chief Conservator of Forest,
Department of Forest,
Panagal Maligai, Saidapet,
Chennai-15.



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4.The District Collector,
Kanyakumari District,
Kanyakumari.

5.The District Forest Officer,
Kanyakumari Division,
Nagercoil, Kanyakumari District.

6.The Forest Ranger,
Kaliyal Forest Range,
Kaliyal Post, Kanyakumari District.

7.The Director of Town Panchayat,
Directorate of Town Panchayat,
Kuralagam, Chennai-600 108.

8.The Assistant Director of Town Panchayat,
Nagercoil, Kanyakumari District.

9.The Executive Officer,
Kadayal Town Panchayat,
Kaliyal Village, Kanyakumari District.

10.G.D.Mithra

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in K.Dis(D2)219/2016, dated 02.02.2016 on the file of the 5th respondent and quash the same as illegal and consequently, for a direction, directing the respondents 1 and 2 to constitute a committee to conduct enquiry against the unlawful permission granted for laying of concrete road in Reserved Forest from Kadayalumoodu Arukani Road to 10th respondent's property in Re.Survey Nos.3/1 and 3/2 at Maruthamparai, Kaliyal Village, Kanyakumari



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District and to take action against the erring officials in accordance with Section 3-B of Forest Conservation Act 1980 and to demolish the road constructed in Reserve Forest and restore the Reserve Forest Area within the time period stipulated by this Court.

For Petitioner : Mr.M.Mahaboob Fazil,
for M/s.T.Lajapathi Roy & Associates
For R1 : Mr.K.Govindarajan,
Deputy Solicitor General of India,
assisted by Mr.D.Saravanan
For R2 to R8 : Mr.M.Sarangan,
Additional Government Pleader
For R9 : Mr.N.S.Karthikeyan
For R10 : Mr.K.Ragatheesh Kumar,
for M/s.Isaac Chambers

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The proceedings of the District Forest Officer, Kanyakumari Division, Nagercoil, Kanyakumari District, dated 02.02.2016 is under challenge in the present Writ proceedings. The impugned proceeding is relating to grant of permission for improvement of existing pathway under Section 3(2) of Forest Right Act, 2006 (hereinafter referred to as 'the Act').



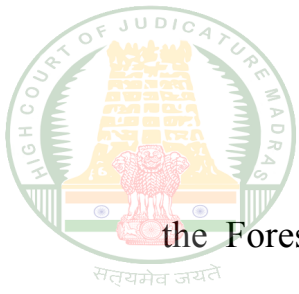
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2.The present Public Interest Litigation has been instituted mainly on the ground that the subject land is forest land and no improvements can be made without obtaining permission from the competent authority.

3.The learned counsel appearing for the petitioner would submit that the petitioner is a whistle blower and improvement of the road is causing danger to the forest activities. However, the learned counsel appearing for the 10th respondent would oppose by stating that Engineering College, namely, Good Shepherd College of Engineering and Technology, is functioning and improvement of the road has been made with the permission of the competent authority and more specifically, under the provisions of the Act.

4.Admittedly, the Engineering College is functioning and large number of students are studying there. The Forest Department has filed counter, stating that the petitioner is trying to suppress the fact that the said pathway is located within Thalakkumalai Tribal settlement with ulterior motive. The said pathway is very much in use by the residents of the Tribal people of Thalakkumalai settlement. Therefore, permission was granted only to improve the land. Further,



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the Forest Department has stated that permission for improvement of existing pathway was issued as per Section 3(2) of the Act, which reads hereunder:-

“Notwithstanding anything contained in the Forest (Conservation) Act 1980 (69 of 1980) the Central Government shall provide for diversion of forest land for the facilities managed by the Government, which involve felling of trees not exceeding seventy five trees per hectares.”

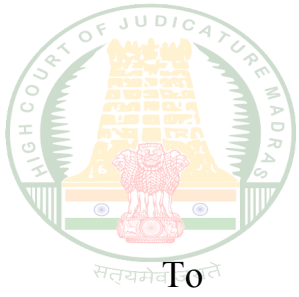
5.In view of the fact that the existing pathway was allowed to be improved only for the benefit of the Tribal people and for the benefit of the Engineering College, wherein large number of students are studying, this Court is not inclined to interfere with the impugned order. Therefore, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (A.D.M.C., J.)

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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