



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2026

CORAM

**THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE K. SURENDER**

WA No. 1992 of 2023

1. A.C.Murugesan
No. 184, Vanniyar Nagar, Azhagapuram,
Kattor, Salem 636 016.
2. P.kandaswamy
No. 7 / 72, Sengaradu, Thaththaiyangar Patti,
Thekkam Patti, Salem 636 044.
3. Madhu
No. 2/ 51, Melur Post, Rasipuram,
Namakkal 637 408.
4. Amudha
No. 9 / 210, Kasi Nagar, Maasinayakkanpatti,
Salem 636 103.
5. Madesu
Ward No. 1, Thekkampatti Omalur,
Salem 636 012.
6. Pazhaniyammal
No. 52 A Indra Nagar Maasinayakkanpatti,
Salem 636 103.
7. Anbu Rajendran
No. 5 / 556, Rasipuram, Main Road S.
Paaparapatti, Salem 636 113.
8. Aarumugam
No. 3 / 195, Maariamman Kovil street,
Aandippatti, Sowdaapuram, Salem 636 005.
9. Vijayalakshmi
No. 3 / 49 / 19B, Teacher Colony
Maasinayakkanpatti, Salem 636 103.



10. Thangavel
No. 3 / 594, Murugan Kaadu Azhagapuram,
Periyaputhur, Salem 636 016.
11. Govindan
Meenang Kaadu, Maasinayakkanpatti,
Salem 636 103.
12. Veerappan
No. 72 B Earumaippatti, Eadappadi Salem 637
102
13. Gopal
No. 203 / 155, Nethaji Street, Kalarampatti
Salem 636 006.
14. saradhamani (alias) Saradhambal
No. 19/9, Jothi Theatre West Street,
Ammapettai, Salem 636003.
15. Manickam
No. 18/ 20, Shanmugam Street, Ammapettai,
Salem.
16. Kaali (Alias) Sevaththa Kaali
No. 1 / 154, Konamaduvu East
Kuraalnaththam, Salem 636 204.
17. Kuzhanaivel
No. 20, Gandhi nagar Vaniga Valagam South
Puram Chevvaipettai, Salem 636 003.
18. Chinnamuthu
No. 5 / 269 Manjaiyan Kaadu Thaththaiyengar
Patti Thekkam Patti, Salem 636 004.
19. C.lyanaar
No. 4 - 175 Near Bus stand Sengaradu,
Omalur Taluk Thaththaiyengar Patti Thekkam
Patti, Salem 636 005.
20. S.Valli
No. 7-9, Uppaandi street,
Panamaraththuppatti, Salem 636007.
21. Anbukkarasan



No. 5 - 22 D. Maaruthi Nagar,
Panamaraththupatti, Salem 636 008.

WEB COPY

Vs

..Appellant(s)

1. The District Collector
The District Level Committee, Collectorate,
Salem - 636 001.
2. The Revenue Divisional Officer
Sub Divisional Committee Collectorate,
Salem 636 001.
3. The Special Tahsildar (Tribal Welfare)
Collectorate salem 636 001
4. The District Forest Officer,
Gandhi Road Salem 636 001.
5. Forest Range Officer,
Forest Range Office, Shevroy South Range,
Hasthampatti, Salem 636 007

..Respondent(s)

To set aside the Order dated 10.03.2023 in WP.No. 8498 of 2022

For Appellant(s): Mr.Vineet Subramani

For Respondent(s): Mr.K.H.Ravikumar,
Govt. Advocate for R1 to R5

JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 10.03.2023 passed in W.P.No.8498 of 2022.

2. The appellants are the writ petitioners, instituted writ proceedings challenging the order dated 08.02.2021 passed by the District Collector, Salem, rejecting the application submitted by the appellants to declare their



right to possess the land declared as 'Reserved Forest' under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, (hereafter referred to as 'Act, 2006').

3. The claims of the appellants are that their ancestors were in possession and enjoyment of the property bearing S.No.1905 to an extent of 291.60 acres situated at Suriyur Village, Kuralnatham Panchayat, Panamarathupatti Union, Salem Taluk, Salem District. Their ancestors were in cultivation of land, put up residence and living there for more than 75 years. During the construction of Panamarathupatti Lake and reservoir, vast extent of lands were acquired. As far as the appellants are concerned, they filed an application under Act, 2006 to declare their rights to possess the reserved forest land to an extent of 291.60 acres. Since the application submitted by the appellants were rejected by the District Collector, the writ petition came to be instituted. The Writ Court elaborately dealt with the issues raised between the parties and dismissed the petition, which resulted in institution of present intra-court appeal under Clause 15 of Letters Patent.

4. Learned counsel for the appellants would mainly contend that the Act would apply not only to the Scheduled Tribes, but also to 'Other Traditional Forest Dwellers'. Section 2(o) defines 'Other Traditional Forest Dwellers' and the appellants would fall under the definition. Thus, their application ought to have been considered by the District Collector. He would rely on Section 3



which speaks about Forest rights of forest dwellers Scheduled Tribes and other traditional forest dwellers. In the present case, documents have been produced by the appellants before the District Collector to establish that their ancestors were living and cultivating the subject land for more than 75 years. Therefore, the appellants are entitled for a declaration to own the lands under the Act, 2006.

5. It is not in dispute between the parties that the appellants are not residing in the subject land and they are residing in some other place, but was continuing cultivation activities. Since they continue to cultivate the said lands and submitted documents to establish that their ancestors were residing and cultivating the land for more than 75 years, the order of the District Collector, is perverse.

6. Learned Government Advocate would strenuously oppose by stating that before the District Collector/competent authority, the appellants have not produced any piece of evidence to prove that they were cultivating the lands and primarily residing in the subject land for more than 75 years. Admittedly, the appellants are not local residents and they are living outside Jarugumalai and Jalluthu Reserve Forest, as per the records available in the revenue Department. The appellants, admittedly, not belonging to Tribal community. They have not proved their existence in the subject land for atleast three generations, prior to 13.12.2005. They are not depending on the forest land



for their livelihood. Therefore, they cannot be construed as “Other Traditional Forest Dwellers” within the meaning under the Act, 2006. Jalluthu Forest Block of Salem Taluk has been notified as reservoir of the Madras Forest Act, 1982, and the same came into effect from 15.09.1989 with clear boundaries. Jarugumalai Forest Block was notified as Reserved Forest under Section 16 of the Madras Forest Act, 1882 and the same came into effect on 15.03.1926. Therefore, the appellants were encroachers in the aforesaid Reserved Forest and therefore, they cannot claim any benefit under Act, 2006. The appellants made attempts to encroach upon reserved forest land from the year 1980 onwards. The Forest Department filed cases against the appellants for having trespassed into the reserved forest land of Shervaroys South Range and the encroachers have been fined for illegal occupation of the Reserved Forest land. The request of the appellants seeking patta and the writ petition filed were dismissed by the High Court. Consequently, eviction notice dated 13.06.2018 came to be issued. It is brought to the notice of this Court that all the encroachers from the subject reserved forest land were evicted and currently, the entire extent of land is with the possession of the Forest Department and they are protecting the Reserved Forest land free from any encroachments.

7. This Court has heard the arguments as advanced between the parties to the lis.



8. Section 2(c) defines “Forest Dwelling Scheduled Tribe” means the members or community of the Scheduled Tribe who primarily residing and who depend on the forest or forest lands for *bona fide* livelihood needs and include the Scheduled Tribe pastoralist communities. Section 2(o) defines “Other Traditional Forest Dwellers” means any member or community who is for atleast three generations prior to 13.12.2005 primarily residing in and who depend on the forest or forest land *bona fide* livelihood needs. Explanation to section 2(o) enumerates that the purpose of this clause “generation” means a period comprising of 25 years. Therefore, three generations as contemplated would mean to say that a person claiming right has to establish that he was residing in the subject land and cultivating the forest land for a continuous period of 75 years, prior to 13.12.2005. Section 3 speaks about the Forest rights of Forest dwelling Scheduled Tribes and other traditional forest dwellers. In the context of the conditions stipulated under Section 3, an enquiry came to be conducted by the District Collector by admitting the application filed by the appellants claiming rights over the forest land to an extent of 291.60 acres. The District Collector issued summons, received all related documents from the parties and conducted enquiry, after affording personal hearing to the parties. The District Collector made a finding in the order under challenge in the writ proceedings dated 08.02.2021 that the appellants with whom enquiry was held on 02.02.2021, did not provide any document before the members of the District Level Committee for possession and enjoyment for 75 years as per Act, 2006. The reason for rejection on



individual basis had been stated in the order impugned. Consequential relief sought for by the appellants for grant of patta also came to be rejected in the District Level Review Meeting.

9. Regarding the scope of the provisions of Act, 2006, the writ Court has elaborately considered the facts as well as the scope of the provision. The writ Court, considering the arguments as advanced by the appellants, the implication of using the word “primarily” is to include the Scheduled Tribes and other traditional forest dwellers, who had either habitation or patches of land forest cultivation for livelihood and would, therefore, be primarily spending most of their time either in temporary shift structures or working on patches in such area irrespective of whether their dwelling houses are outside the forest or forest land. The arguments that the traditional forest dwellers need not be residing inside the forest but are depending on the forest for their *bona fide* livelihood was also considered by the writ Court to the context of language employed under section 2(c) and 2(o) of the Act, 2006.

10. While considering the issue, the writ court held that cultivating for bonafide and livelihood purpose would only mean that ploughing, irrigation and planting for the purpose of livelihood, but not for commercial exploitation of the land offending Forest Conservation Act, 1980. When the forest land has been used by exploiting the said land for commercial purposes, it cannot be said that the appellants are totally depending on the forest produce. When



Jarugumalai Forest block was notified as Reserved Forest in the year 1926 and the appellants have been evicted from the forest land and residing somewhere else, merely because, the appellants had made attempts to encroach upon forest lands in the year 1980 and doing some cultivation in the larger area, which was declared as Reserved Forest, it cannot be said that they are the “Other Traditional Forest Dwellers” and eking out their livelihood only through the forest produce or the community rights etc. The writ Court further made a finding that the appellants have challenging the eviction order mainly on the ground that the land itself is not forest land and such a right under the Forest rights never been raised in the earlier occasion and therefore, now the appellants cannot develop their case by merely getting an observation from the Apex Court to file an application under Act, 2006.

11. Even in the claim petition, it is not the case of the appellants that they are totally depending on the forest produce. Even assuming that the District Collector has not considered the document like voter ID, ration card and Aadhar card, it is an admitted case of the appellants before this Court that they have Aadhar cards in different addresses. The case of the appellants is that the ancestors were residing in the forest land long back and therefore, they satisfied the conditions stipulated under section 2(o) of the Act, 2006 and thus, they are entitled to get patta for the extent of 291.60 acres in Reserved Forest land. Even presuming that the ancestors of the appellants were originally residing in the forest area and thereafter, some area have been



acquired and the entire area have been declared as Reserved forest in the year 1926, admittedly, the appellants are now residing somewhere else.

Therefore, they are not eligible to claim any right under Act, 2006 without establishing the fact that the appellants solely depend on the forest or forest land for *bona fide* livelihood needs. The appellants in their writ affidavit have not even averred, what are all the agricultural activities and nature of forest produce they collect in the forest for their *bona fide* livelihood. The very spirit of the Act is to protect the livelihood of the forest dwellers. Therefore, it must be established beyond any pale of doubt that they are residing in forest area and doing cultivation for their livelihood. In the absence of any proof to establish the essential ingredients and the spirit under the provisions of the Act, the appellants are not entitled for any relief as such sought for in their application.

12. This Court is of the considered view that the appellants have not even established any semblance of legal right to secure any declaration under the provisions of the Act, 2006. Both the District Level Committee as well as the writ Court has elaborately considered the factual aspects as well as the documents produced between the parties.

13. The power of judicial review of the High Court under Article 226 is to ensure the processes through which decision has been taken by the competent authority is in consonance with the provisions of the statutes and



rules in force but not the decision. In the present case, the procedures were followed scrupulously by affording opportunity to the parties. Both the District Level Committee as well as Writ Court, factually found that the appellants have not established any right. In view of the above findings, this Court finds no further interference is called for. Consequently, the Writ Appeal stands dismissed. No costs.

(S.M.S.,J.) (K.S.,J.)
10-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vsi

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**S.M.SUBRAMANIAM, J.
AND
K.SURENDER, J.**

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