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Crl.O.P.No.30783 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.03.2026

PRONOUNCED ON : 23.03.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.30783 of 2022

Shanmugam

.... Petitioner

Vs

1.The Assistant Conservator of Forests
(Traming) O'Valley, Forest Range,
O'Valley, Gudalur, The Nilgiris.

2.The State of Tamil Nadu,
Rep. by the Forest Range Officer,
O'Valley Range, O'Valley,
Gudalur, The Nilgiris.

.... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for records in TNF No.2 of 2022 dated 18.05.2022 pending on the file of the learned Principal District Munsif-cum-Judicial Magistrate, Gudalur, Nilgiris District and quash the same.

For Petitioner : Mr.V.Karthikeyan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in TNF No.02 of 2022 dated 18.05.2022 on the file of the Principal District Munsif-cum-Judicial Magistrate, Gudalur, Nilgiris District.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The case of the prosecution is that on 22.04.2022, at about 4.00 p.m, the first respondent, along with his team, conducted a field inspection at O'Valley West Section, Baram Beat near Periashola, in the land comprised in Survey No.571 of O'Valley village, Nilgiris District. As per the notification issued by the District Revenue Officer, Janmam lands, Gudalur in Na.Ka.No.370 of 2011, the land comprised in Survey No.571 of O'Valley village was notified as forest land under the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969 (hereinafter referred to as the "Act"). Further, as per G.O.Ms.No.363, Revenue (SS-1(a)) Department, dated 28.11.2011, the Nilgiris District Gazette Notification was published on 02.01.2012. Pursuant to the said



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notification issued by the District Collector, Nilgiris District, the subject land was handed over to the Forest Department.

4. As per the Tamil Nadu Forest (Amendment) Act 2019 (Act No.18 of 2019), the subject land is classified as forest land under Section 53 of the Act, and it is deemed to be Reserved Forest, without undergoing the procedures as contemplated under Sections 4 to 16 of Tamil Nadu Forest Act 1882. After knowing the said fact, the accused trespassed into the said land and cut natural trees and bushes, thereby disturbing the elephant corridor of Mudumalai-Nilambur via O.Valley which affects and destroys the natural habitat of elephants. It is clear a violation of the provisions under Sections 26 and 28A(2) of the Tami Nadu Forest Act 1882. Therefore, the first respondent registered a case in FRO O'Valley Range in TNF No.02 of 2022 for the said offence.

5. The learned counsel appearing for the petitioner submitted that the land in O'Valley Village, Gudalur Taluk, Nilgiris District comes under the provisions of the Act. The said Act was enacted in the year 1969 and came into force on 27.11.1974. As far as the Jenmis who were in possession of the land as on 27.11.1974 are concerned, they were entitled to file applications seeking grant of Ryotwari Patta within six



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months from 27.11.1974. The petitioner is also entitled to seek grant of patta. However, the petitioner was not able to proceed with the patta proceedings due to certain family circumstances. However, other landowners continued with the patta proceedings before the Settlement Officer, which included the land owned by the petitioner comprised in Survey Nos.567, 570 and 571 to an extent of 125 acres. Subsequently, Ryotwari Patta was granted in respect of those lands. Challenging the said grant of patta, the District Forest Officials preferred an appeal before the District Court in C.M.A.No.04 of 1999. After knowing the said fact, the petitioner filed an application in I.A.No.213 of 2000 seeking to implead himself as a party to the appeal and the same was allowed. However, the appeal filed by the Forest Department was allowed. Aggrieved by the said order, the petitioner preferred an appeal before the Special Tribunal in S.T.A.No.1 of 2004 and obtained an interim order of injunction. Finally, the Special Tribunal allowed the appeal and remanded the matter for fresh consideration by order dated 13.04.2007. Thereafter, after remand, all the petitions filed by Jenmis were dismissed. Once again, all the Jenmis preferred appeals in S.T.A.Nos.2 to 11 of 2009 before this Court and the Hon'ble Division Bench of this Court also dismissed the said appeals.



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6. Further, apart from the prosecution initiated by the first respondent, the District Forest Department had also issued an eviction notice dated 19.07.2022 under Section 68A of the Tamil Nadu Forest Act, thereby calling upon the petitioner to submit his explanation. While being so, the first respondent initiated prosecution under Sections 26 and 28A(2) of the Tamil Nadu Forest Act, 1882, alleging that the subject properties were declared as forest land by G.O.Ms.No.363, dated 28.11.2011. The learned counsel further submitted that Section 26 of the Forest Act, 1882 is only enabling provision for making rules and is a stand alone provision empowering the Government to frame rules. Further, Section 28A(2) deals only with the punishment for violations. Therefore, there must be a separate rule prescribing the procedure and the nature of violations. In the absence of such rules, the first respondent cannot prosecute the petitioner under Sections 26 and 28A(2) of the of the Tami Nadu Forest Act, 1882. He further submitted that as per the Tamil Nadu Government Gazette Notification, there was an amendment by inserting Section 16A into the Tamil Nadu Forest Act, pursuant to which, the subject land was declared as Reserved Forest. Therefore, the first respondent ought not to have initiated prosecution as against the petitioner under Sections 26 and 28A(2) of the Tamil Nadu Forest Act, 1882.



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7. A perusal of the counter affidavit filed by the second respondent, and the submissions made by the learned Additional Public Prosecutor appearing for the respondents, reveals that on 22.04.2022, the first respondent conducted a field inspection and seized ½ stack of wood branch materials under 'H' Form, along with the seizure mahazar, in the presence of witnesses. Thereafter, the accused was arrested and his statement was recorded and he was released on bail on the very same day. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.68 of 2023 by the Judicial Magistrate, Gudalur. Further, though the Government of Tamil Nadu published a Gazette Notification inserting the provision under Section 16A, thereby declaring that any land in Janmam Estates, vested with the Government under the Act (Tamil Nadu Act 24 of 1969) and determined as forest under the Act shall be treated as Reserved Forest, the said provision has not been acted upon so far.

8. After the insertion of the provision under Section 16A, the Government issued G.O.Ms.No.57, Environment and Forests (FR.14) Department, dated 14.06.2019. Pursuant to the said Government order, the Principal Chief Conservator of Forests forwarded a proposal to amend



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Section 16 of the Tamil Nadu Forest Act, 1882, so as to notify the lands classified as forest under Section 53 of the Act straightway as Reserved Forest, without undergoing the procedures contemplated under Sections 4 to 16 of the Tamil Nadu Forest Act, 1882. Thereafter, the Government decided to bring the Tamil Nadu Forest (Amendment) Act, 1882 (Tamil Nadu Act 18 of 2019) into force with effect from 14.06.2019. Accordingly, the appended notification was directed to be published in the extraordinary issue of the Tamil Nadu Gazette dated 14.06.2019.

9. Further, as per Section 68A of the Tamil Nadu Forest Act, any person unauthorisedly occupying any land in a Reserved Forest, or any land at the disposal of the Government, is liable to summary eviction. In the present case, the petitioner was served with an eviction notice and it is pending for eviction. Under Section 68A, any person unauthorisedly occupying any land in a Reserved Forest or any land at the disposal of the Government may be summarily evicted by an officer of the Forest Department not below the rank of Forest Ranger or an officer of the Revenue Department not below the rank of Tahsildar, having jurisdiction over the area in which such land is situated, in such manner as may be prescribed. Therefore, in view of the insertion of Section 16A of the Tamil Nadu Forest Act, and the provisions contained under Section 68A,



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any person who is found to be in unauthorised occupation of such land is liable to be evicted and proceeded against in accordance with law. But, the technical objection raised by the petitioner with regards to the prosecution is a point to be considered and the petitioner shall not be liable to be prosecuted under Sections 26 and 28A(2) of the Tamil Nadu Forest Act, 1882.

10. Therefore, no prosecution can be initiated as against the petitioner under Chapter-II of the Tamil Nadu Forest Act, since the subject land has now been declared as Reserved Forest and the relevant provisions fall under Chapter – III and not Chapter – II of the Act. However, the petitioner has already been served with an eviction notice and it is pending. Though the petitioner is not liable to be prosecuted under Chapter-III, eviction proceedings can be initiated and proceeded with against the petitioner under Section 68A of the Tamil Nadu Forest Act.

11. In view of the above, the proceedings in TNF No.02 of 2022 dated 18.05.2022 on the file of the Principal District Munsif-cum-Judicial Magistrate, Gudalur, Nilgiris District, is liable to be quashed and the same is hereby quashed. Accordingly, this Criminal Original Petition



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stands allowed. The concerned authorities are directed to proceed with the eviction proceedings as against the petitioner in accordance with law as expeditiously as possible.

23.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Neutral Citation : Yes/No
Lpp

To

1. The Principal District Munsif-cum-Judicial Magistrate,
Gudalur, Nilgiris District.

2.The Assistant Conservator of Forests
(Traming) O'Valley, Forest Range,
O'Valley, Gudalur, The Nilgiris.

3.The Forest Range Officer,
O'Valley Range, O'Valley,
Gudalure, The Nilgiris.

4.The Public Prosecutor,
High Court, Madras.



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Pre-delivery order in
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