

W.P.Nos.16572, 16579, 16584, 16587, 16593 and 16596 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

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CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR
and
THE HONOURABLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.16572, 16579, 16584, 16587, 16593 and 16596 of 2021
&
W.M.P.Nos.17552, 17560, 17568, 17574, 17580 and 17584 of 2021
&
W.M.P.Nos.26978, 26980, 26981, 26982, 26984 and 26988 of 2021

A.Karuppannan
S/o.Anaigounder

... Petitioner
in W.P.No.16572/2021

M.Chinnathambi
S/o.Marimuthu

... Petitioner
in W.P.No.16579/2021

A.Amaravathi
D/o.Anaigounder

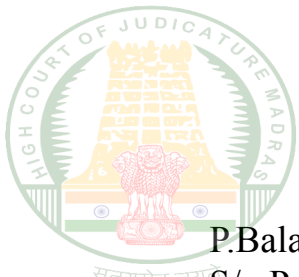
...Petitioner
in W.P.No.16584/2021

P.Soundarajan
S/o.Periyathambi

...Petitioner
in W.P.No.16587/2021

P.Asaithambi
S/o.Periyathambi

...Petitioner
in W.P.No.16593/2021



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P.Balakrishnan
S/o.Periyathambi

... Petitioner
in W.P.No.16596/2021

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VS.

1. The District Collector
Kumarasamipatti
Salem - 636 007
Salem District

2. The Forest Officer
Chirvarayan West Circle
Salem-7
Salem District

...Respondents
in all WPs

Prayer in W.P.No.16572 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021 passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 1.5 acres at Vellakkalpatti Village, Omalur Taluk, Salem District

Prayer in W.P.No.16579 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021 passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 1.5 acres at Vellakkalpatti Village, Omalur Taluk, Salem District.

Prayer in W.P.No.16584 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021

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passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 1.5 acres at Vellakkalpatti Village, Omalur Taluk, Salem District.

Prayer in W.P.No.16587 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021 passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 1 acre at Vellakkalpatti Village, Omalur Taluk, Salem District.

Prayer in W.P.No.16593 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021 passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 3 acres at Vellakkalpatti Village, Omalur Taluk, Salem District.

Prayer in W.P.No.16596 of 2021 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of proceedings in Na.Ka.No.22/2020 dated 20.07.2021 passed by the second respondent, quash the same and consequently direct the respondents not to interfere with the possession and enjoyment of petitioner's land in S.No.2 an extent of 3 acres at Vellakkalpatti Village, Omalur Taluk, Salem District.

For Petitioner : Mr.M.Elango
(in all WPs)

For Respondents : Mr.M.R.Gokul Krishnan
(in all WPs) Additional Government Pleader



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COMMON ORDER

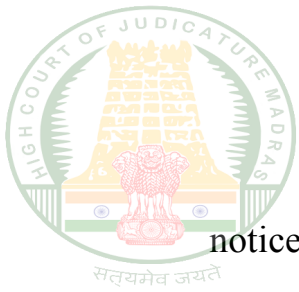
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[Order of the Court was made by M.SUNDAR, J.]

This order will govern the captioned 6 main 'Writ Petitions' ['WPs' in plural and 'WP' in singular for the sake of brevity] and captioned 12 'Writ Miscellaneous Petitions' ['WMPs' in plural and 'WMP' in singular for the sake of brevity] thereat.

2. Mr.M.Elango, learned counsel for writ petitioners and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader for both the respondents are before us, with the consent of learned counsel on both sides, main WPs were taken up.

3. Factual matrix in a nutshell is that notices under Section 68-A of the 'Tamil Nadu Forest Act, 1882 (Tamil Nadu Act V of 1882)' {hereinafter 'Forest Act' for the sake of brevity and convenience} were issued to the writ petitioners and the same have been assailed in the captioned WPs; that all the notices have been signed on 20.07.2021; that these notices which have been assailed in the captioned main WPs shall be referred to as 'impugned



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notices' for the sake of convenience and clarity; that assailing impugned notices on the ground that while in one breath it calls upon the noticees to show-cause within 15 days alleging that they have encroached upon forest land, in the same breath it calls upon them to remove themselves from forest land, which they are alleged to have encroached; that a Division Bench of this Court on 10.08.2021 granted an interim order qua impugned notices, the interim order is operating and State has filed WMPs to vacate the interim order; that main WPs have been taken up today.

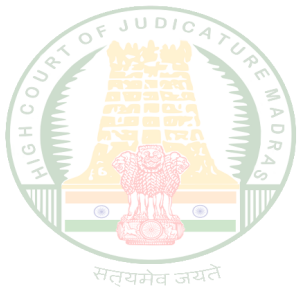
4. Learned counsel for writ petitioners makes two points and they are as follows:

i) the impugned notices should have been issued only by the Forest Ranger / Tahsildar in the light of Annexure to 'Tamil Nadu Forest Lands (Eviction of Encroachments) Rules, 1981 dated 13.07.1981' {hereinafter 'Forest Rules' for the sake of convenience}, which provides for a template for issuing notices under Section 68-A and the template is as follows:

'ANNEXURE.

Eviction Notice Under Section 68-A

WHEREAS, it has come to the notice of the undersigned that son of.....residing



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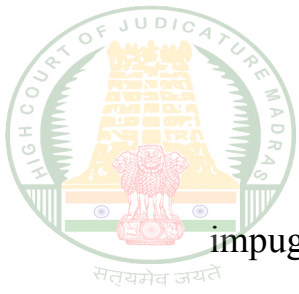
at.....Village....., Taluk.....District.....has committed encroachment in the land, viz.,.....at the disposal of the Government of Tamil Nadu (Forest Department). He is hereby directed to show cause within [fifteen days] of receipt of this notice, as to why he should not be evicted from the said land and the property thereon should not be forfeited to the Government under section 68-A of the Tamil Nadu Forest Act, 1882 (Tamil Nadu Act V of 1882).

Forest Ranger/Tahsildar.'

ii) The 'Scheduled Tribes and Other Traditional Forest

Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007)' {hereinafter 'Forest Dwellers Act' for the sake of brevity and convenience} has since come into force and writ petitioners have a right under the same more particularly rights under Section 3 thereat.

5. As regards the first point, it is clear from a plain reading of Section 68-A of Forest Act that notice under Section 68-A can be issued and even eviction can be carried out by Officers of Forest Department not below the rank of 'Forest Ranger'. In the instant case, the impugned notices have been issued by one Thiru.K.Chinnathambi, son of Thiru.Kulandai Gounder, who on the dates of notices, namely 20.07.2021 was serving as Forest Range Officer, Shevaroy's South Range, Salem. This Officer, who issued the



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impugned notices has sworn to counter affidavit dated 20.10.2021, which

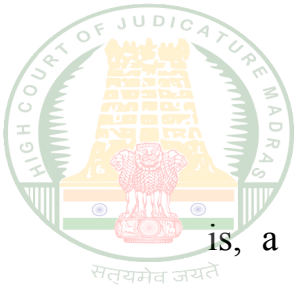
has also been used in support of the vacate stay petitions.

6. As already alluded to supra, Section 68-A vests powers in Officers of Forest Department, not below the rank of Forest Ranger and '**Forest Officer**' has been defined vide Section 2 of interpretation clause which reads as follows:

“Forest Officer”:- Forest Officer means any person appointed by name or as holding an office by, or under the orders of the Government to be a Conservator, Deputy Conservator, Assistant Conservator [Extra Assistant Conservator]. Forest Ranger, Forester, Forest Guard; or to discharge any function of a Forest Officer under this Act or any Rule made thereunder:’

7. A plain reading of Section 68-A of Forest Act and definition of Forest Ranger vide Section 2 of interpretation clause makes it clear that the deponent of the counter affidavit, who was holding the office of Forest Range Officer is competent to issue the impugned notices.

8. The argument that the template under Forest Rules refers to Forest Ranger / Tahsildar, in our considered opinion is a damp squib. The reason



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is, a template cannot control language of a Statute or any subordinate

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legislation thereat. There is also another aspect of the matter and that is, in

any event, the impugned notices have been issued by Forest Range Officer.

9. This takes us to the second point urged by the learned counsel for writ petitioner.

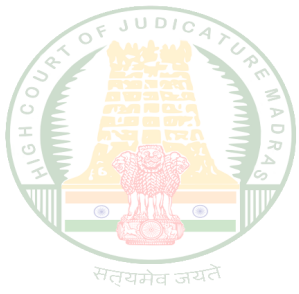
10. The second point does not come to the aid of the writ petitioner in his campaign against the impugned notices as the Forest Dwellers Act kicked in only on 31.12.2007 and the Rules thereunder being Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007' {hereinafter 'Forest Dwellers Rules' for the sake of convenience} kicked in only on 01.01.2008. To be noted, Forest Dwellers Rules is subordinate legislation made in exercise of Rule making power under Section 14(1) of Forest Dwellers Act. However, if the writ petitioners have any rights under Forest Dwellers Act, that cannot be ignored on the ground that Forest Dwellers Act does not give retrospective effect because the impugned notices, as already alluded to supra, came to be stayed by this Court on 10.08.2021 and the stay is operating until today. Therefore, while we do not interfere with the impugned notices, much less



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dislodge the same, we make it clear that it is open to the writ petitioners to approach the Committee/Entity/Authority concerned under Forest Dwellers Act, if they have a right and it is open to Authorities / Committees / Entities under Forest Dwellers Act to consider the same on its own merits and in accordance with law. In this regard, the lead case is *Salem Mavatta Ezhpulli Malaivazh Makkal Nala Sangam case* [*Salem Mavatta Ezhpulli Malaivazh Makkal Nala Sangam Vs. State of Tamil Nadu* reported in *2009-5-L.W.714*] decided by a Division Bench on 20.10.2009 in W.A.No.376 of 2008.

11. As regards the impugned notices, calling upon the noticees to show-cause within 15 days in one breath and in the same breath calling upon the noticees to remove themselves forthwith, the same is clearly not in consonance with the mechanism provided under Section 68-A of Forest Act and therefore, we make it clear that coercive action (if any and if that be so) will be subject to and depending on considering the writ petitioners' representation by officer concerned within meaning of Section 68-A and proviso (b) thereat.



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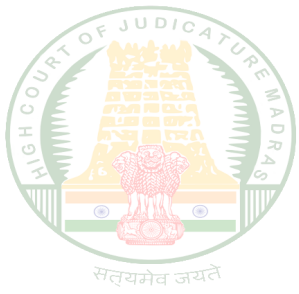
12. In this regard, the writ petitioners have admittedly responded to

the impugned notices and this has been articulated in the counter affidavit

and the relevant paragraph in the counter affidavit is a portion of Paragraph

7, which reads as follows:

'7. It is submitted that, a notice has been issued by this respondent under Section 68-A of the said Act in Na.Ka.No.22/2020 dated 20.07.2021 (for short hereinafter "Notice"). The said notice issued under Section 68-A of the act is in order and in accordance with the provisions of the Act. The petitioner has received the notice on 22.07.2021. The time frame of fifteen days given to the petitioner to explain why he should not be evicted from the said land is also in accordance with the Tamil Nadu Forests Lands (Eviction of Encroachments) Rules, 1981 (for short hereinafter "Rules"). The petitioner has submitted his representation in his letter No.nil dated nil for the said notice and the same has been received in the 2nd respondent's office on 04.08.2021. Even before the decision made by the respondents on the representation submitted by the petitioner is communicated to the petitioner, the petitioner has approached this honourable court and has preferred to file this writ petition....'



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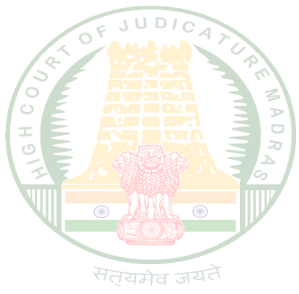
13. In the light of the narrative, discussion and dispositive reasoning

thus far, the following order is made:

(i) The impugned notices are not interfered with but are sustained with two caveats viz., a) that the direction to noticees to remove themselves forthwith is nullified, coercive action being subject to and depending on orders to be made by '*Officer concerned*' vide proviso (b) to Section 68-A;

(ii) It is open to the writ petitioners to approach the Committee,/Entity/Authority concerned under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007) and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 within four weeks from today i.e., on or before 27.08.2025;

(iii) Subject to writ petitioners approaching the Committee,/Entity/Authority concerned under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007) and Scheduled Tribes



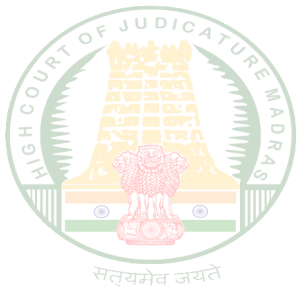
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and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, it is open to the writ petitioners to send further representation in response to the impugned notices within two weeks thereafter i.e., on or before 10.09.2025;

(iv) Officer concerned shall now consider the representation already sent and the further representation (if any) and make orders within six weeks from 10.09.2025 i.e., on or before 22.10.2025;

(v) The orders so made shall be duly served on each of the writ petitioners under due acknowledgment within seven working days from the date of the order being made;

(vi) All rights and contentions of writ petitioners are left open qua Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Central Act 2 of 2007) and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 thereunder.



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Captioned WPs disposed of in the aforesaid manner with afore-

referred directives, observations and preservation of rights supra.

Consequently, captioned WMPs are disposed of as closed. There shall be no order as to costs.

(M.S., J.) (H.C., J.)
30.07.2025

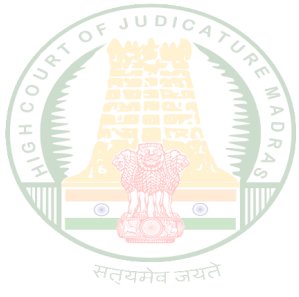
Index: Yes
N.C. : Yes

gpa

P.S: Though captioned writ petition is disposed of, list under the cause list caption 'FOR ACTION TAKEN REPORT' on 05.11.2025.

To

1. The District Collector
Kumarasamipatti
Salem - 636 007
Salem District
2. The Forest Officer
Chirvarayan West Circle
Salem-7
Salem District



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M.SUNDAR, J.

and

HEMANT CHANDANGOUDAR, J.

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30.07.2025