

MADRAS HC ORDERS PROBE INTO ENCROACHMENT OF FOREST LAND

Through the writ petition ¹filed in the Madras High Court by S.Prabakaran, under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, the petitioner complains that the private respondent has purported to encroach on forest land for the purpose of setting up a resort.

Article 226 of the constitution of India allows for filing a writ petition in the high court established inside India. There are 5 types of writs granted by the constitution of India under article 32. They are as follows

- ★ Habeas Corpus
- ★ Mandamus
- ★ Certiorari
- ★ Quo Warranto
- ★ Prohibition

These writs are filled for the enforcement of Fundamental rights against the state when the state breaches the fundamental rights offered by constitution.

The writ in focus is the writ of **Mandamus** (literally meaning “We Command”), which is filed by the injured person against the state so that the court can order the lower court or official authority or officer to perform the mandatory duty.

The petitioner, S Prabakaran filed this petition against an individual from Chennai for purportedly encroaching on forest land to set up a resort in Naduvattam village of Tamil Nadu’s Nilgiris district.

The petitioner informed the court that despite the district forest officer bringing the matter to the notice of the Additional Principal Conservator of Forest, no action has been taken and construction has commenced which infringes the write of people surviving on Nilgiris.

The bench deciding the case was two judges bench and comprised of Chief Justice Sanjib Banerjee and Justice Senthilkumar Ramamoorthy.

The petitioner later submitted that the private respondent has laid pipelines that extract water out of forest land.

¹ W.P.No.12517 of 2021

Nilgiris is range of mountains spread over three states that are Kerala, Karnataka, and Tamil Nadu and forms the part of Western Ghats of India.

The court in this writ petition gave several orders for the restoration of the rights of the people living in the Nilgiris which are as follows:

- i. The District Collector, Nilgiris, and the Chief Forest official exercising jurisdiction over the area should immediately visit the spot and conduct surveys, if necessary, and ensure that the last inch of forest land that might have been encroached upon is returned to its pristine status.
- ii. The concerned forest official will file a report when the matter appears three weeks hence.
- iii. Regarding the pipeline grievance by the petitioner, the same must be stopped immediately and the negligent or recalcitrant forest officials identified and steps taken against them for not being able to protect the relevant forest. This aspect of the matter should also be covered in the report that has been called for.²

The high court also stated that it is absolutely imperative that not an inch of forest land be allowed to be encroached upon in the State without a policy decision in such regard being made upon due justification.

This judgement can be seen as a sigh of relief for the people living in the Nilgiris who would be affected by the construction work going in the area. The court held the principle that our forests must not be encroached without a government order and the welfare of the people living in the forest area must be taken into consideration while deciding the case.

² W.P.No.12517 of 2021