

(2001) 07 MAD CK 0104

In the Madras High Court

Case No : Writ Petition No. 3087 of 1995

P. K. Mohammad

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 10-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Tamil Nadu Forest Act, 1882 — Section 10

Citation : (2001) 07 MAD CK 0104

Hon'ble Judges : S. Jagadeesan, J

Bench : Single Bench

Advocate : Suresh, for the Appellant; V.S. Sethuraman, Spl. Govt. Pleader (Forest), for the Respondent

Judgement

S. Jagadeesan, J.—The Writ Petition has been filed against the impugned order dated 22.6.1992, where under the Petitioner's claim in respect of portion of area, which had been notified as Reserve Forest had been rejected.

2. The Paragraph 12(i) of the impugned order clearly

In respect of claims rejected wholly or in part the claimants may, within 30 days from the date of receipt of this order, prefer an appeal to the District Court, Udthagamandalam, in respect of such rejection only u/s 10 of the Tamil Nadu Forest Act, 1882.

3. Admittedly, the Petitioner did not file any appeal immediately on receipt of the impugned order. However, the Writ Petition had been filed on 13.2.1995, which is after three years. When the Petitioner had an alternative effective remedy of appeal and when the questions of fact cannot be decided by this Court in the Writ Petition with regard to the possession etc., this Court is of the view that the Writ Petition cannot be maintainable. Accordingly, the Writ Petition is dismissed.

4. It is open to the Petitioner to prefer an appeal and if the Appellate Authority has power to condone the delay, they can do so.

5. One other reason why this Court is not inclined to exercise jurisdiction is, as stated already, when the appeal provision is there and appeal has to be filed within 30 days, the Petitioner having failed to do so, he cannot be permitted to come to this Court seeking redressal as and when he likes. The Writ Petition has been filed nearly after three years. Having lost their right of appeal, it is not open to the Petitioner to invoke jurisdiction of this Court under Article 226 of the Constitution of India.