



W.P.(MD)No.8466 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON : 03.02.2022

DELIVERED ON : 04.03.2022

CORAM:

**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

**and**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

WP(MD) No.8466 of 2020  
and W.M.P.(MD) No.7852 of 2020

G.Thirumurugan @ Theeran Thirumurugan

.. Petitioner

Vs.

1. Union of India, represented by  
The Principal Secretary,  
Ministry of Environment, Forest and Climate Change,  
Indira Paryavaran Bhavan,  
Jarbagh Road, New Delhi - 110 003.
2. State of Tamil Nadu, represented by  
The Principal Secretary to the Government,  
Environment and Forest Ministry,  
State of Tamil Nadu,  
Fort St.George, Chennai - 600 009.
3. The Principal Chief Conservator of Forests  
and Head of Forest Force,  
Panagal Maligai, 1, Jeenis Road,  
Saidapet, Chennai - 600 015.



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4. The Principal Conservator of Forests  
and Chief Wildlife Warden,  
Panagal Maligai,  
1, Jennis Road,  
Saidapet, Chennai - 600 015.

5. The District Collector,  
Office of the District Collector,  
Theni District - 625 531.

6. The Wildlife Warden,  
Megamalai Wildlife Division,  
Forest Road, Theni - 625 531.

7. The District Forest Officer,  
District Forest Office, Theni,  
Housing Board Colony, KRR Nagar,  
Theni - 626 331.

8. The Regional Joint Director,  
Office of the Regional Joint Director,  
Animal Husbandry,  
Allinagaram Veterinary Hospital Compound,  
Theni - 625 531.

9. E.Ethalavulu,

10. A.Benitto Paulraj,

11. Malaimadugal Paathukappu Nalasangam (INSITU),  
Rep. by its Secretary, M.Sathya Mathan,  
74/5, Rayappar Street,  
Rayappanpatti, Uthamapalayam Taluk,  
Theni District.

12. Colonel Pennycuick Parambariya Malaimaddu  
Valarpor Sangam, Reg.No.54/2018, Rep. by its  
President C.Kennady, Door No.43, Ward 12,  
Gounder Street, Melagudalur,  
Uthamapalayam Taluk,



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Theni District.

(R9 to R12 were impleaded vide Court Order dated 03.02.2021 in WMP(MD) Nos.8931, 9099, 9100 and 9199/2020 in W.P.(MD) No.8466 of 2020.

.. Respondents

**Prayer:** Writ Petition has been filed under Article 226 of the Constitution of India seeking a Writ of Mandamus to direct the respondents to completely ban cattle grazing in the Megamalai Wildlife Division & Sanctuary under the jurisdiction of the Respondent No.6 and the Theni Forest Division under the jurisdiction of the Respondent No.7, within the time stipulated by this Court.

For Petitioner	:	Mr.T.Lajapathi Roy for Mr.R.Alagumani
For Respondent 1	:	Mr.V.Chandrasekaran, SPC
For Respondents 2 to 4, 6 and 7	:	Mr.J.Ravindran, AAG Asst. by Mr.T.Seenivasan SGP(Forest)
For Respondents 5 & 8	:	Mr.A.Selvendran, SGP Asst.by Mr.K.Tippusultan, G.A.
For Respondent 9	:	Mr.Haja Mohideen
For Respondent 10	:	Mr.A.Benitto Paulraj Party-in-Person
For Respondent 11	:	Mr.S.P.Parthasarathy
For Respondent 12	:	Mr.R.Srinivas
Amicus Curiae	:	Mr.T.Mohan Prof. Dr. Priya Davidar

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## **ORDER**

### **WEB COPY(Order of the Court was made by V.BHARATHIDASAN, J.)**

This writ petition has been filed in public interest to ban grazing of domesticated cattle inside the Megamalai Wildlife Division and Sanctuary.

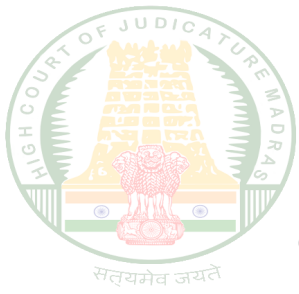
2. The Megamalai Wildlife Division and Sanctuary, originally notified as a "Reserved Forest" in the year 2009, subsequently, has been notified as "Wildlife Sanctuary" in the year 2011, and recently in the year 2021, it was declared as a "Tiger Reserve", namely, Srivilliputhur-Megamalai Tiger Reserve.

3. According to the petitioner, group of cattle owners living in Theni District and other places nearby the Tiger Reserve are letting their quadrupeds for grazing inside the forest area for months together, thereby causing degradation of the forest. The respondents, forest as well as the revenue authorities, are indiscriminately issuing grazing passes to those persons, and the cattle grazers misusing the same, letting in a large number of cattle into the forest illegally. The authorities are also not taking any step to prevent the same and permitting domesticated cattle inside the forest for commercial purposes.



**WEB COPY 4.** Grazing by a large number of domesticated cattle inside the forest area will result in killing the young regeneration and ultimately the future forest. That apart, domesticated quadrupeds also communicating diseases to the wild animals which ultimately leads to loss of wildlife. The degeneration of the forest directly affect the catchment area of Vaigai river which originates from the Western Ghats and also affects the flow of water into the Vaigai river which ultimately affects the agriculture and other operations in five districts in southern Tamil Nadu. Despite several representations, no action has been taken to curtail the cattle grazing inside the forest, hence the present writ petition has been filed.

**5.** The sixth respondent, Wildlife Warden, Megamalai Wildlife Division, has filed a counter affidavit stating that, earlier the people living in and around the forest area were destroying the forest and forest growth. The above illegal practice has been regulated subsequently and grazing of sheep, cow and buffalo alone are permitted for grazing in restricted number. The above permits were issued for grazing of these animals in a specified block in a portion of the reserved forest for a limited period, and suitable conditions were also issued for regulating the same.



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6. It is further stated that, for improving the habitat and managing it

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for wildlife interest, grazing of domestic livestock is being restricted. The permits were issued to the local villagers without any fees for grazing only to limited number of livestock in the Theni Forest Division and Megamalai Wildlife Division, under Section 21(2)(a) of the Tamil Nadu Forest Act, 1882, and based on various Notifications issued by the Principal Chief Conservator of Forests. Now the number of livestock population grazing inside the forest area has been slightly reduced and it would be completely banned in times to come.

7. It is further stated in the counter affidavit that, Megamalai Wildlife Division acts as home for many endangered species of flora and fauna which cannot be sacrificed for the sake of commercial interest of few local people. Livestock can be fed only in the notified grazing lands meant exclusively for the purpose of stall feeding. Therefore, the livestock grazing will not be allowed in the entire forest area but only in the notified areas for grazing. It is further stated that if anybody violates the conditions of the permit, and if any trespasses or pastures cattle or permits cattle to trespass into the forest area suitable action will be taken against them under Section 21, of the Tamil Nadu Forest Act.



**WEB COPY 8.** According to the 6th respondent, as per the Gazette Notification issued in the year 2019-2020, an extent of 8521.80 hectares of Reserved Forest has been reserved for plantation and their maintenance. Another extent of 8605.08.5 hectares of Reserved Forest land being fire sensitive area for regeneration purposes has been declared as closed for grazing in Megamalai Wildlife Division. Likewise, areas where plantations were raised in Theni Forest Division to an extent of 8098.15 hectares and fire sensitive areas over an extent of 39768.84 hectares were also closed for grazing. It is further stated that grazing can be limited to Government poramboke lands and grazing land outside the forest areas, all such poramboke and grazing lands can be revived by the district administration for the purpose of cattle grazing. The forest officials are regularly surveying these areas and also taking necessary action against the violators.

**9.** According to the 6th respondent, continuous grazing in the degraded forest will destroy all the potential of the forest eco-systems. Uncontrolled and unlimited grazing is incompatible with scientific forestry. Grazing and forest fire go together in several forest areas and there is a potential danger of spread of several diseases like Anthrax, Foot and Mouth



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diseases etc., from the grazing domestic livestock to wild herbivores thereby

causing serious impact on the wild herbivore population. Considering all

these facts the grazing is permitted in the forest area with restrictions in the

Theni Forest Division and Megamalai Wildlife Division. The 6th respondent

also filed another Status Report explaining various ill effects of letting cattle

inside the forest area for grazing.

**10.** The 5th respondent, District Collector filed a detailed counter affidavit, referring to various Notifications issued by the Government, declaring the forest area as 'Reserved Forest' as well as Wildlife Sanctuary.

**11.** Pending writ petition, two Societies viz., Malaimadugal Paathukappu Nalasangam (INSITU) and Colonel Pennycuick Parambariya Malaimadu Valarpor Sangam were impleaded as R11 and R12. Apart from them, two individuals claiming that they are breeding a type of cattle called "Malaimaadu", also sought to implead themselves in the writ petition and they were also impleaded as R9 and R10.

**12.** The 12th respondent Society filed a detailed affidavit stating that, there are 136 members in the Society, they are owners/breeders/grazers of

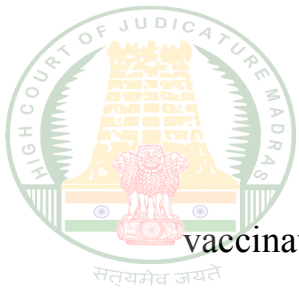




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'Malaimaadu', an Indian indigenous species of Uthamapalayam and Andipatti taluks of Theni District. According to them Malaimaadu is part of the ecology of the said hills, and they are endangered breed. According to them, the above said cattle cannot exist like ordinary cattle which can be domesticated and fed in captive environments. It is stated that the above species has been reared by a distinct local communities as a special modus in rearing such cattle. During the monsoon between October-December and April-June, these cattle are sent to forest area for grazing and in the off-season after the harvest of paddy and other crops, the cattle are let into the fallow lands for the purpose of grazing and penning. This pattern has been followed from time immemorial and it is a peculiar and unique native rearing practice followed by the local communities for centuries. Most of the breeders of this species are agriculturist and the dung is used by them for organic manure purposes and also selling the excess dung. These cattle were permitted grazing in buffer zones and other non-core areas of the forest and grazing of these animals will in no way cause habitat degradation and it will not cause loss and disturbance to the biodiversity of the landscape.

**13.** They have also denied the contention that these cattle are communicating foot and mouth disease to the wildlife, as all the cattle are



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vaccinated for all cattle borne diseases once in six months which was duly certified by Animal Husbandry department and they do not indulge in forest fire or poaching as complained by the petitioner.

**14.** According to them, they are grazing the cattle in accordance with the permit issued by the authorities, and there is no violation of the conditions imposed in the permit and also they are not violating any of the provisions of the Tamil Nadu Forest Act, as well as the Cattle Trespass Act.

**15.** It is further contended that cattle grazing inside the permissible area of the forest is permitted by the Government, it is a customary practice and the right evolved over many centuries and it also involves the question of livelihood of the livestock keepers of the local breed. According to them, cattle grazing does not cause invasion or destruction of forest or displacement of forest species or degradation of environment inside the forest.

**16.** Further cattle grazing does not cause damage to saplings or affect river water or spoil biodiversity and the sustenance of forest. They are not permitted to go into the core forest area, hence they are not causing any degradation of forest and wildlife habitat. They have never caused nor

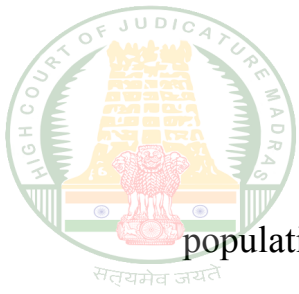


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expected to cause human wildlife conflicts and there is no degradation of forest in the Megamalai and Theni district due to grazing of cattle especially "Malaimaadu". It is further stated that even though 400 hectares of grazing lands are available in Theni district most of the lands have been encroached and those grazing land should be retrieved enable them for grazing.

**17.** In the report submitted by Prof.Dr.Priya Davidar, a well known environmentologist, joined as Amicus Curiae, it is stated that, cattle reduce the forage available to wild herbivores, the requirement of each cow or bull being 12-15 kg of biomass a day, depletion of fodder in protected areas can reduce densities of wild herbivores, therefore sustain fewer tigers. Cattle density negatively affect the density of wild herbivores such as deer, gaur and elephants, due to competition for forage. In support of her claim, she has also given some data.

**18.** It is further stated in her Report that, these cattle transmit diseases to wildlife, spill over infections from domestic cattle like anthrax, foot and mouth disease, lumpy skin diseases, Tuberculosis and parasitic infection may cause disease epidemics and emerging infectious diseases in wild animals, which ultimately leads to catastrophic decline of wild



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population and affect the ecological balance. Cattle depredation by Tigers

and leopards is common in forests, with large numbers of cattle available therein, due to which there are widespread poisoning of tigers by cattle grazers in the forest area.

**19.** The report further states that, this region is rich in biodiversity and forms a vital link between the Palani Hills / Anamalais and the Cumbum West Forests towards the north, with the Periyar Tiger Reserve to the South-West, forming an important landscape and wildlife corridor. That apart, 63 species of mammals, out of which 24 are globally threatened with extinction and nine western ghats endemics and presently there are large population lion-tailed Macaque, a globally threatened species are available there. The report further states that based on various studies in the areas, where human pressures including livestock grazing are higher, the presence of the Sloth bear was lower. That apart, livestock has also been linked with human health as the amplification and circulation of the dengue fever virus in six hills which included Megamalai was associated with livestock movement.

**20.** As per the report, the cattle breed called 'Malaimaadu', is not listed in the Registered Cattle Breeds of India, which is only an indigenous



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non-descriptive cattle and it has been named based on the use for which they are maintained. Study also shows that due to illegal trespassing of cattle herders into Megamalai Wildlife Sanctuary resulted in 35 incidents of forest fire. Livestock grazing will cause degradation, soil loss and affect river flow. As large number of grazing land is available in the fertile Cumbum valley, including porambake land, revenue land and degraded reserve forests, the authorities can restore those lands and set up fodder farms for the cattle and this would be a viable alternative.

**21.** In the report filed by the 6th respondent, Deputy Director, Megamalai Division, Sivilliputhur Megamalai Tiger Reserve, Theni, stated that, if an area is continuously subjected to grazing, then it will no way prolong as forests and it is one of the worst detrimental effects of grazing of cattle inside the forest. By letting the cattle inside the forest, it will increase the competition between wildlife and domestic cattle for food and water in the forest area and this competition affects the population dynamics in wildlife. The increased local cattle population brings in demand to use water bodies, it will be polluted by grazing cattle and it will prevent wildlife from using these water bodies because of the pollution level, forcing them to locally stray for water to adjoining farmlands and some may find their way to



open wells and die.

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**22.** It is further stated in the report that, domestic cattle also play a detrimental role in causing dispersal of invasive weed seeds that spread throughout the forests where they cannot spread naturally and these weed plants compete with local flora and affect the natural vegetative composition of the area and thereby affects the local biodiversity. The domestic cattle are vector of diseases to wildlife during common feeding and through water bodies which will largely affects the population of wildlife in most occasions and extreme situations may lead to local extinction of wild population. Further disease management in the wild population is a comprehensive effort with frequent monitoring of diseased animal becoming hardly possible.

**23.** The next extreme effect of grazing is trampling of the soil by cattle that damage the plant roots. Heavy cattle increase soil compaction heavily and if they are supported in strength, the detrimental effects are several fold higher, which will increase soil compaction leading to concentration of roots at surface level which prevents the roots from accumulating resources thereby resulting in bare lands where further vegetative growth gets hindered.



**WEB COPY 24.** The report further says that, severe soil erosion during wild rains that completely removes the fertile top soil and what results is denudation that causes soil degradation and finally degrades the forest. The competition imposed by domestic cattle is forcing the wildlife to migrate to far off areas for resources, which will cause energy imbalance and that will affect the reproductive potential of the wildlife and ultimately the population decline. The continuous grazing of an area by cattle reduces the competitive vigor of the wild grass plants which either develop host plant resistance towards the domestic cattle thus becoming non palatable or will get injured and die leading to change of vegetative composition in that area and this will cause extinction of pasture grounds.

**25.** The report further states that, domestic cattle become easy prey to wild carnivores and they get habituated to these cattle and develop tendency to raid cattle from forest fringe villages thus developing local antagonism. The cattle grazers normally allow cattle to graze fresh vegetative growth and the grazing grounds tend to dry due to seasonal influence or become mature thereby grass blades become rough for cattle to graze, therefore the cattle grazers ignite fire to grasslands and other grazing lands in anticipation of



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fresh grass growth in the ensuing season, which results in large forest areas

being put to ashes and such fire events becomes uncontrollable. The

competition between the domestic cattle and wildlife for food, forces the

wildlife to migrate to forest fringe village farmlands and thus affecting the

agricultural yield to the farmers, ultimately affects agricultural production in

large areas, that apart the migrated wildlife also succumb to poachers.

**26.** According to the report, another major factor is poaching, where the cattle grazers befriend the poachers and become informants to them on the movement of wild animals which facilitates poachers in targeting the wildlife in the area. That apart, they also inform the movement of forest officials to the poachers. The possible nexus of grazers, poachers and encroachers could be dangerous to the forest and wildlife habitats and such unholy association among them can become detrimental to forest.

**27.** After Megamalai Division was declared as a Tiger Reserve, grazing is prohibited in this area as per Section 33(d) and 35(7) of Wildlife (Protection) Act, 1972, and under Section 57 of the Tamil Nadu Forest Act, 1882, and the cattle trespass has become an offence now. Under Section 57, of the Tamil Nadu Forest Act, cattle trespass is prohibited. The recent





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declaration of Megamalai Wildlife Sanctuary as a Tiger Reserve, due to its identification as significant habitats for the tiger, which is critically endangered species and is a national priority species for protection.

**28.** Further according to the Report, nearly 30,000 cattle, suspected to be owned by very few owners are grazing the forest areas in the Tiger Reserve. For them, cattle rearing is a commercial venture and it is practiced with motives of profit making and such commercial activities should not be allowed to happen in the shadow of promoting organic farming or rearing native breed. Further, Malaimaadu is a separate breed as claimed by the cattle owners cannot be accepted as there is no proof that Malaimaadu is a separate breed and it is undergoing genetic bottleneck. Hence, seeking benefit under the Biological Diversity Act cannot be countenanced.

**29.** With these pleadings, we have heard the learned counsel appearing for the petitioner, respondents and the learned Amicus Curiae Mr.T.Mohan and Prof.Dr.Priya Davidar.

**30.** Mr.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.T.Mohan, learned Amicus Curiae, would contend that after



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declaration of the Megamalai Reserve Forest as a Tiger Reserve under

Section 38(b) of the Act, cattle grazers cannot claim any right to take their

cattle inside the Tiger Sanctuary. That apart, the right of survival of an endangered specie like Tiger is more important than the cattle which can survive outside the forest area with the available fodder. For feeding these cattle, it is not required to enter into the forest, the cattle can also be grazed beyond the forest area in the fragmented landscape and the cattle owners cannot insist to allow them to take the cattle inside the forest for the purpose of grazing as a matter of right.

**31.** Mr.J.Ravindran, learned Additional Advocate General appearing for the official respondents supported the contentions and submissions of the petitioner, and submitted that the Megamalai Reserve Forest has been declared as a Tiger Reserve, now it is not possible to allow any cattle inside the sanctuary for the purpose of grazing as it is specifically prohibited under the Wild Life (Protection) Act. Earlier cattle owners were permitted to take the cattle for grazing only for limited purpose in the forest fringe areas, making use of the same they have trespassed into the forest and caused damage to the habitat, and cause serious danger to the wildlife, hence the cattle cannot be permitted to trespass into the forest area.



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**WEB COPY 32.** Mr.R.Srinivasan, learned counsel appearing for the 12th respondent Society, submitted that Malaimaadu is an endangered breed, which is found only in Theni and neighbouring districts, and grazing in the Western Ghats has been permitted for nearly a century, and the people living in and around the district have accrued vested right and their right to take the cattle inside the forest has been preserved for several decades. He further submitted that the concerned authorities periodically issued permits for grazing the cattle and that accrued right cannot be taken away. The learned counsel further submitted that Malaimaadu are protected under the Biological Diversity Act, 2002, and it is their Constitutional Right guaranteed under Articles 48 and 56 of the Constitution of India.

**33.** Disputing the claim made by the petitioner that, the cattle are causing damage to the forest habitat, the learned counsel would submit that for a long time, the authorities are permitting cattle owners to graze their cattle inside the forest, and valid authorisation has been issued by the forest as well as revenue authorities allowing cattle for grazing inside the forest. Absolutely there is no complaint that these cattle are causing damage to the forest habitat and posing competition to the wild animals. Apart from that,



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no evidence is available to show that the cattle are communicating diseases

to the wildlife and grazers are setting fire to the forest, it is all imaginary and not supported by any material. The learned counsel further submitted that, it is the traditional right of the cattle owners which cannot be prohibited all of a sudden.

**34.** Mr.A.Benitto Paulraj, the 10th respondent herein, appeared in person and submitted that they are cattle owners and they have vested right to let cattle inside the forest for grazing and they are doing it from time immemorial and that right cannot be taken away.

**35.** Originally, the entire stretch of Megamalai mountainous ranges are estate lands belonging to the erstwhile Kandamanoor Estate. Thereafter, a re-settlement proceedings have been initiated under the Tamil Nadu Act, 26 of 1948 and the Registry was also updated. Then, Megamalai Forest Block was notified under Section 4, of the Tamil Nadu Forest Act, 1882, vide G.O.Ms.No.141, F & F Department, dated 28.02.1978, by the Forest Settlement Officer, Usilampatti, and a settlement proceedings has been initiated. A proposal was made for declaring an extent of 24656.80 hectares as a 'Reserve Forest'. Subsequently, vide G.O.Ms.No.118, Environment and

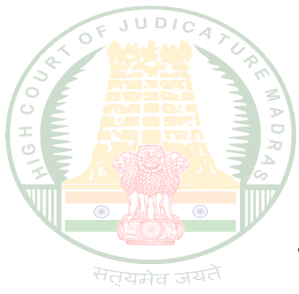


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Forest (FR-14) Department, dated 09.09.2009, an extent of 24655.75.5

hectares of land has been notified as Reserved Forest with effect from 31.05.2010. Thereafter, Megamalai Wildlife Sanctuary has been formed by notifying the above area as "Megamalai Wildlife Sanctuary", covering 626.77 sq.km (62677.550 ha). Pending the writ petition, recently, Megamalai Wildlife Sanctuary along with Srivilliputhur Grizzled Giant Squirrel Sanctuary has been declared as "Srivilliputhur - Megamalai Tiger Reserve", under Section 38 V, of the Wildlife (Protection) Act, 1972, covering core area of 64186.21 ha and buffer area of 37470.92 ha, totalling 101657.13 ha or 1016.5713 sq.km, and as on today Megamalai Reserve Forest has been notified as a "Tiger Reserve".

**36.** It is not in dispute that, Megamalai Wildlife Division is a crucial Eco system. Vaigai river originated from there and it is a part of catchment area, which takes care the needs of more than five districts viz., Theni, Dindigul, Madurai, Sivagangai and Ramnathampuram. This forest area is a habitat for many endangered fauna like elephant, tiger, panther, nilgiri tahr, langur, gaur etc., and it is also a migratory corridor for animal population including elephants.



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**37.** It is stated that nearly 20,000 cattle have been let into the forest for grazing in Theni district alone and roughly 1.25 lakhs cattle are let in into the forest area for grazing from the southern districts in the western ghats. So far as this Megamalai Tiger Reserve is concerned, cattle were let into the forest freely for months together, even as per the 9th and 12th, respondents for nearly six months, the cattle are wandering in the forest area for grazing.

**38.** Now, let us look at the various provisions in the relevant Acts dealing with trespass of cattle into the Reserved Forest or Tiger Reserve. The Wild Life (Protection) Act, 1972 (hereinafter referred to as the 'Act') enacted for the protection of wild animals, birds and plants. The Act inter alia provides legal framework for protection of various species of wild animals, management of their habitats, regulation, control of trade in parts and products derived from various species of wild animals. Chapter IV of the Act, deals with protected areas, declaration and protection of Sanctuaries. **Section 27** of the Act, deals with restriction on entry into a sanctuary, which reads as follows:

*"27. Restriction on entry in sanctuary.—*

*(1) No person other than,—*

*(a) a public servant on duty,*



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- (b) *a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary,*
- (c) *a person who has any right over immovable property within the limits of the sanctuary,*
- (d) *a person passing through the sanctuary along a public highway, and*
- (e) *the dependants of the person referred to in clause (a), clause (b) or clause (c), shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.*

(2) *Every person shall, so long, as he resides in the sanctuary, be bound—*

- (a) *to prevent the commission, in the sanctuary, of an offence against this Act;*
- (b) *where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;*
- (c) *to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;*



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*(d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and*

*(e) to assist any forest officer, Chief Wild Life. Warden, Wild Life Warden or police officer demanding his aid for preventing the commission of any offence against this Act or in the investigation of any such offence.*

*(3) No person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause wrongful gain as defined in the Indian Penal Code, 1860 (45 of 1860), alter, destroy, move or deface such boundary-mark.*

*(4) No person shall tease or molest any wild animal or litter the grounds of sanctuary."*

Accordingly, only a public servant on duty and a person who was permitted by the Chief Wild Life Warden or authorised officer to reside within the limits of the sanctuary or a person having immovable property within the limits of sanctuary and a person passing through the sanctuary along a public highway alone are permitted to enter or reside inside the sanctuary.





**WEB COPY 39. Section 28**, of the Act deals with grant of permits for entry or reside in a sanctuary for the purpose of investigation, study of wildlife, photography, scientific research, tourism and transaction of lawful business with any person residing in the sanctuary. **Section 29**, of the Act prohibits destruction in the sanctuary without permit. **Section 30**, of the Act prohibits any person to set fire or leave any fire burning in the sanctuary in such manner as to endanger such sanctuary.

**40. Section 33**, of the Act, empowers the Chief Wildlife Warden to control, manage and maintain all sanctuaries and **Sub-Section (d) of Section 33**, empowers the Chief Wildlife Warden to regulate, control or prohibit in keeping with the interest of wildlife, grazing or movement of livestock. The relevant portion reads as follows:

*"33. Control of sanctuaries.—The Chief Wild Life Warden shall be the authority who shall control, manage and maintain all sanctuaries and for that purpose, within the limits of any sanctuary,*

*(a) .....*

*(b) .....*

*(c) .....*



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*(d) may regulate, control or prohibit, in keeping with the interests of wild life, the grazing or movement of live-stock.* (emphasis added)

**Section 35**, of the Act, deals with the declaration of National Parks and **Sub-Section (7) of Section 35**, prohibits grazing an any livestock in a National Park. The relevant portion reads as follows:

*"35. Declaration of National Parks.—.....*

*(7) No grazing of any live-stock shall be permitted in a National Park and no live-stock shall be allowed to enter therein except where such live-stock is used as a vehicle by a person authorised to enter such National Park."*

**41.** Further, **Section 57**, of the Tamil Nadu Forest Act, 1882, prohibits cattle trespasses, and provisions of Cattle Trespass Act, 1871, made applicable, which prohibits cattle causing damage to public plantation, as such it could be seized and impounded by a Forest Officer or Police Officer. That apart, under **Section 21(d)**, of the Tamil Nadu Forest Act, trespasses or pastures cattle or permits cattle to trespass is an offence, punishable with imprisonment for a term which may extend to six months or with the fine which may extend to five hundred rupees or with both.



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**42.** A conjoin reading of these provisions makes it clear that entry of cattle into Reserved Forest or Tiger Reserve is prohibited and it is also an offence. After Megamalai Reserve Forest has been declared as a Tiger Reserve, the Chief Wildlife Warden, alone is empowered to regulate, control or prohibit, grazing or movement of livestocks inside the sanctuary, excepting him, no other person is empowered or authorised to permit the grazing of cattle inside the Tiger Reserve. Considering the above Statutory bar, we are of the considered view that cattle owners cannot claim any right to take their cattle inside the Reserve Forest or Tiger Reserve.

**43.** The Megamalai Reserve Forest is now notified as a Tiger Reserve. The Tiger is classified as an endangered species. Article 21 of the Constitution of India not only protects human rights but also protects and preserve other species, as they also have equal right to exist on the earth like us. That apart, conservation and protection of environment is an inseparable part of right to life. We humans should safeguard the endangered species as they are also having right to life on the earth like human beings. The human approach should be Eco centric and the human interest cannot take any precedence over the other species living on the Earth. The State being the custodian of natural resources, has a duty to maintain them.



**WEB COPY 44.** The Hon'ble Supreme Court in the matter relating to protection of Asiatic Lions, another endangered species, in *Centre for Environmental Law, World Wide Fund India Vs. Union of India and others*, reported in (2013) 8 SCC 234, has held, in paragraphs 47 and 48 as follows:

*"47. We reiterate that while examining the necessity of a second home for the Asiatic lions, our approach should be ecocentric and not anthropocentric and we must apply the "species best interest standard", that is the best interest of the Asiatic lions. We must focus our attention to safeguard the interest of species, as species has equal rights to exist on this earth. Asiatic lion has become critically endangered because of human intervention. The species originally existed in North Africa and South-West Asia formerly stretched across the coastal forests of northern Africa and from northern Greece across South-West Asia to eastern India. Today the only living representatives of the lions once found throughout much of South-West Asia occur in India's Gir Forest. Asiatic lion currently exists as a single sub-population and is thus vulnerable to extinction from unpredictable events, such as an epidemic or large forest fire, etc.*



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*and we are committed to safeguard this endangered species because this species has a right to live on this earth, just like human beings.*

*48. Article 21 of the Constitution of India protects not only the human rights but also casts an obligation on human beings to protect and preserve a species becoming extinct, conservation and protection of environment is an inseparable part of right to life. In M.C. Mehta v. Kamal Nath [(1997) 1 SCC 388] , this Court enunciated the doctrine of “public trust”, the thrust of that theory is that certain common properties such as rivers, seashores, forests and the air are held by the Government in trusteeship for the free and unimpeded use of the general public. The resources like air, sea, waters and the forests have such a great importance to the people as a whole, that it would be totally unjustified to make them a subject of private ownership. The State, as a custodian of the natural resources, has a duty to maintain them not merely for the benefit of the public, but for the best interest of flora and fauna, wildlife and so on. The doctrine of “public trust” has to be addressed in that perspective."*

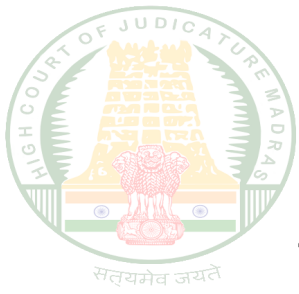


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45. In the very same judgment, while dealing with the Biological

WEB CD Diversity Act, the Hon'ble Supreme Court has held that, there is a rapid deterioration of the ecology due to human interference which is aiding the disappearance of several wild animal species. The relevant paragraph of the said judgment reads as follows:

*"34. Parliament enacted the Biological Diversity Act in the year 2002 followed by the National Biodiversity Rules in the year 2004. The main objective of the Act is the conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. Biodiversity and biological diversity includes all the organisms found on our planet i.e. plants, animals and micro-organisms, the genes they contain and the different ecosystems of which they form a part. The rapid deterioration of the ecology due to human interference is aiding the rapid disappearance of several wild animal species. Poaching and the wildlife trade, habitat loss, human-animal conflict, epidemic, etc. are also some of the reasons which threaten and endanger some of the species."*



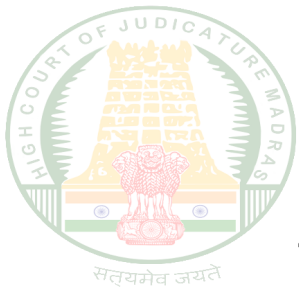
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46. Apart from that the emerging infectious diseases are mostly

zoonotic, which are likely to be transmitted from these cattle to the wildlife.

A Division Bench of Manipur High Court in *The Manipur Valley Village Reserve Forest Rights Protection Association Vs. The State of Manipur* in P.I.L.No.21 of 2020, dated 03.06.2020, elaborately considered these aspects.

47. So far as the claim made by the cattle owners of so called Malaimaadu, available report shows that, this breed is not recognised as a native breed either by the Tamil Nadu Animal Husbandry Department or the Tamil Nadu Veterinary and Animal Sciences University or in any other science literatures, thus, these cattle do not form an exclusive genetic identity and hence it is not an unique breed. In fact these cattle are brought to their farmlands during summer and again driven back into the forest during monsoon season, which clearly shows that the cattle can thrive on agricultural or farm based diet and not exclusively dependent on forest based fodder diet. It is further stated that, cattle are reared for commercial purposes and sent for butchering across state borders, thus commercial activities should not permitted to happen in the shadow of promoting organic farming.



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**48.** Considering all the above materials, it is clear that, allowing the cattle to graze inside the forest, especially the Tiger Reserve, is not only causing damage to the wildlife habitats, posing serious threat to the wildlife, and also prohibited under law. The cattle owners cannot claim it as a matter of right to take their cattle inside the Tiger Reserve for grazing, and in the interest of wildlife it should be necessarily prohibited.

**49.** The authorities are directed not to allow any domesticated cattle to venture into the forest area for the purpose of grazing, throughout the forest area in Tamil Nadu. Considering these circumstances, we inclined to allow this writ petition, accordingly this writ petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

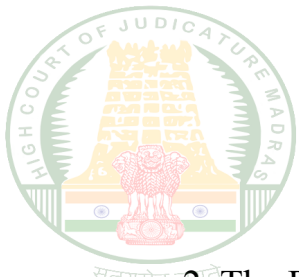
**(V.B.D.J.) (N.S.K.J.)**  
**04.03.2022**

Index: Yes  
kk

To

1. The Principal Secretary,  
Ministry of Environment, Forest and Climate Change,  
Government of India, Indira Paryavaran Bhavan,  
Jarbagh Road, New Delhi - 110 003.





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2. The Principal Secretary to the Government,  
Environment and Forest Ministry,  
Government of Tamil Nadu,  
Fort St.George, Chennai - 600 009.
3. The Principal Chief Conservator of Forests  
and Head of Forest Force,  
Panagal Maligai, 1, Jeenis Road,  
Saidapet, Chennai - 600 015.
4. The Principal Conservator of Forests  
and Chief Wildlife Warden,  
Panagal Maligai, 1, Jennis Road,  
Saidapet, Chennai - 600 015.
5. The District Collector,  
Office of the District Collector,  
Theni District - 625 531.
6. The Wildlife Warden,  
Megamalai Wildlife Division,  
Forest Road, Theni - 625 531.
7. The District Forest Officer,  
District Forest Office, Theni,  
Housing Board Colony, KRR Nagar,  
Theni - 626 331.
8. The Regional Joint Director,  
Office of the Regional Joint Director,  
Animal Husbandry,  
Allinagaram Veterinary Hospital Compound,  
Theni - 625 531.



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W.P.(MD)No.8466 of 2020

**V.BHARATHIDASAN, J.**

**AND**

**N.SATHISH KUMAR, J.**

kk

**PRE DELIVERY ORDER IN**  
**W.P.(MD) No.8466 of 2020 and**  
**W.M.P.(MD) No.7852 of 2020**

RESERVED ON : 03.02.2022

DELIVERED ON : 04.03.2022