

## **Implementation of Forest Rights Act in Gudalur**

### **Action for Community Organization, Rehabilitation and Development**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (henceforth FRA or the Act) marks a significant shift in the forest governance of India. During the colonial period, forests were designated as state property and were used primarily for the agro-commercial needs of the colonial government. This dispossessed tribals and forest-dwelling communities of their land, livelihoods, and rights. Post-colonial policy followed suit and continued to vest the management of forests in the hands of the state. The FRA is a landmark judgement which seeks to reverse this historic injustice by including these communities in the project of forest governance. The rights recognised under the FRA include the right to access forest produce and occupy forest land, recognition of the community's role in conservation and management, and the right to basic development facilities (roads, electricity, etc) on forest-land.

#### **The Forest Dwelling Communities**

The Gudalur Forest Division is home to four different adivasi communities, all of who fall in the category of "Particularly Vulnerable Tribal Groups (PVTGs)"- Paniyas, Kattunayakans, Bettakurumbas and Mullukurumbas. Each of these communities is unique in terms of its social structure, economic organization, cultural and religious practices and extent and nature of dependence on forests.

**Paniyas-** The Paniyas constitute the highest population of indigenous communities in Gudalur valley. The Paniyas have been bonded labourers for several generations on land owned by a non tribal forest dwelling community called the Chetties. Traditionally food gatherers, most of them work as wage labourers to earn an income.

**Kattunayakans-** The Kattunayakans were mainly hunters and gatherers of forest produce, especially honey with sporadic shifting cultivation around their settlements. They have been relatively furthest away from mainstream development interventions. A majority continue to live inside the forest, living on forest produce and a small amount of money which they earn by going for wage labour occasionally.

**Mullukurumbas-** The Mullukurumbas are known for their hunting and bird catching traditions. Among the indigenous communities, they are the most well off, often owning small tracts of land and practising settled agriculture. Over the years they have had the greatest access to government schemes and programmes. Today several Mullukurumbas are enrolled in higher study courses in Coimbatore and Bangalore. Some also have government jobs.

**Bettakurumbas-** The Bettakurumbas are famous for their skills as elephant mahouts. They have often been employed by the forests department as their foot soldiers (Anti Poaching Watchers), since they know the ins and outs of the forest thoroughly. They were known to lead the khedda operations for erstwhile maharajas. Many were skilled ironmongers. Currently many are employed by the forest department in various capacities.

The Chetties are another forest dwelling community who would technically classify as Other Traditional Forest Dwellers (OTFDs) under the Forest Rights Act as per the 'three generations' criterion. However, the 'bonafide' livelihood needs criterion does not apply to most of them. So their eligibility under the Act becomes a little questionable. Most Chetties, like the Mullukrumbas, are settled agriculturists who received patta for their agricultural land from the British. To the best of our knowledge, Chetties in Gudalur have not applied for recognition of rights in the forest.

### **Land use**

The Gudalur Forest Division sits between the Mudumalai Tiger Reserve and the Mukurthy National Park and is a typical 'matrix habitat' - large tea and coffee estates, considerable number of small agricultural holdings, and an influx of immigrants from Kerala in the 1960 and Srilankan repatriates in the 1980s. There has been, and continues to be significant and sometimes drastic land use changes with the expansion of industrial/intensive agriculture. While the adivasi communities continue to deal with 'modernisation' in different ways, it is reasonably clear that they have lost a considerable part of their ancestral domain to both the state (in the form of the Forest Department and Government owned plantations like the Tantea corporation) and immigrants into the area who have occupied the land. In this context, the concept of customary boundaries of a village are not existent anymore for most villages. Most adivasi settlements now share their space and resources with different immigrant groups. The extent of influx can be better understood by the fact that most adivasi settlements/hamlets/villages are not anymore known by their traditional names, which used to be derived from the prominent geographical features around their settlement/hamlet.

### **Interventions by ACCORD**

ACCORD started in 1985 as a movement to help adivasis in Gudalur valley organise themselves to assert their land rights. The enactment of the Forest Rights Act in 2006 added another dimension to this movement which has been ongoing. ACCORD has been implementing the Act in the Gudalur and Pandalur Taluks through its 25000 adivasi member organization called the Adivasi Munnetra Sangam (AMS). Soon after the Rules came into force in 2008, ACCORD conducted multiple trainings with the leaders of the AMS to explain to them the spirit and the relevance of the Act. In the context of Gudalur where different adivasi and non adivasis communities exist and where the issue of land has been complicated, ACCORD has been working towards ensuring smooth implementation of the Act while simultaneously addressing the challenges and complexities.

### **Formation of Gram Sabhas**

There was a lot of ambiguity regarding how the Gram Sabha should be formed. A Gram Sabha is usually understood to be a body comprising all members on the electoral roll in a Gram Panchayat. However, this definition would have led to wide variations in the composition of Gram Sabhas. For instance, in some panchayats the Gram Panchayat consisted of thousands of members, while in other panchayats the Gram Panchayats did not exist at all (such as in areas that are governed by Town Panchayats). The Act specifies that a Gram Sabha may consist of all the adult members in a hamlet. However, this level of

organization also posed some problems, as some hamlets consisted of as little as one family. For these reasons, it was not practical to create Gram Sabhas at the Panchayat level (as they might be too large) or at the hamlet level (as they might be too small).

To address this issue, ACCORD decided to form what became known as Special Tribal Gram Sabhas to address the unique circumstances and challenges faced in Gudalur and Pandalur. The Special Tribal Gram Sabhas were constituted by grouping hamlets into clusters of about one-hundred and fifty families. Each cluster made up one Special Tribal Gram Sabha.

The second decision made during this process was to limit membership of the Special Tribal Gram Sabhas to only tribals. The FRA recognises two categories as being eligible for rights under the Act: Scheduled Tribes (Adivasis) and Other Traditional Forest Dwellers (OTFDs). In order to qualify, Scheduled Tribes are required to prove their residence in the area since December 2005 while Other Traditional Forest Dwellers are required to have resided in the area for three generations (estimated at 75 years). In Gudalur, the only two groups that qualify for rights under these conditions are the Adivasis and the Chettys (OTFDs). Most other groups in Gudalur have settled there within the last 75 years and thus do not meet the requirements to acquire rights from the FRA.

In Gudalur and Pandalur (as elsewhere) there is a history of adivasi land being encroached upon and grabbed by more recent settlers. Given this, there was a concern that the FRA could easily be misused by these groups and that this pattern of misappropriating adivasi rights would continue. Therefore, Special Tribal Gram Sabhas were formed with an exclusively adivasi membership to ensure that the Adivasis had autonomy in taking decisions regarding their own rights. This was implemented with the help of the District Collector, who passed an order to all Panchayats requiring them to form these Special Tribal Gram Sabhas. Finally, all Panchayats passed a resolution that recognized the Special Tribal Gram Sabhas in each area. In this manner, twenty-nine Special Tribal Gram Sabhas were constituted in 2009. Two more were added recently, making a total of thirty-one Special Tribal Gram Sabhas.

### **Awareness of the Provisions of the Act**

As with most newly-passed legislations, the initial obstacles that had to be surmounted were awareness based.

The lack of awareness at the community level was partially tackled by ACCORD circulating single-page summaries in Tamil of the salient provisions of the Act, visiting area centres and speaking to community members. Though there was a lot of participation in such meetings, it was felt that a clear understanding of the Act and its implications was still lacking, at both the team and the village level. What these meetings did achieve however, was a larger awareness about the Act, as well as a feeling of community and the need to mobilise people to collectively work together.

What was unexpected was the level of unawareness that prevailed even in the higher echelons of the district administration. For instance, the District Collector did not seem aware of the requirement to form Gram Sabhas and Forest Rights Committees under the

Act; in a letter to all the village panchayats in the district, he had only asked that each of them pass resolutions to sanction roads and other development facilities for some tribal villages, which was a far cry from the purpose of the Act. NGOs working the area, individually and collectively through the district level coordination committee<sup>1</sup> tackled this lack of awareness through the circulation of summaries of the Act, meetings with officers of the district administration and conducting training programmes at different levels for concerned officials.

While the work on Forest Rights Act continued unabated with Gram Sabha meetings happening regularly to file claims and discuss progress, ACCORD intensified its efforts from 2013 to build greater understanding on the provisions among the team and community leaders of the Act, especially those relevant to Gudalur with focus on community rights of access and use of forest and protection rights. Accordingly, multiple trainings were organized. ACCORD used different techniques for these trainings. A shadow puppet show was organized. A handbook detailing the provisions of the Act in simplified language was developed and distributed to FRC members.

One key strategy has been to make the Gram Sabhas realise the power and responsibilities they have under the Act. Towards this, ACCORD conducts regular meetings with Gram Sabha leaders to discuss issues and way forward. Attempts have also been made to ensure that successful case studies from across the country are shared with the Gram Sabha leaders frequently. The video of the historic success of Dongria Kondhs of Niyamgiri in kicking Vedanta out was shared with the Gram Sabha leaders which worked very effectively in reinforcing their belief in the power of the Gram Sabhas. Exposure visits of Gram Sabha leaders to Vazhachal and B.R.Hills where the Act has been successfully implemented and where title deeds have been issued were organized. The community came back from the visit feeling highly motivated to replicate the success story in Gudalur.



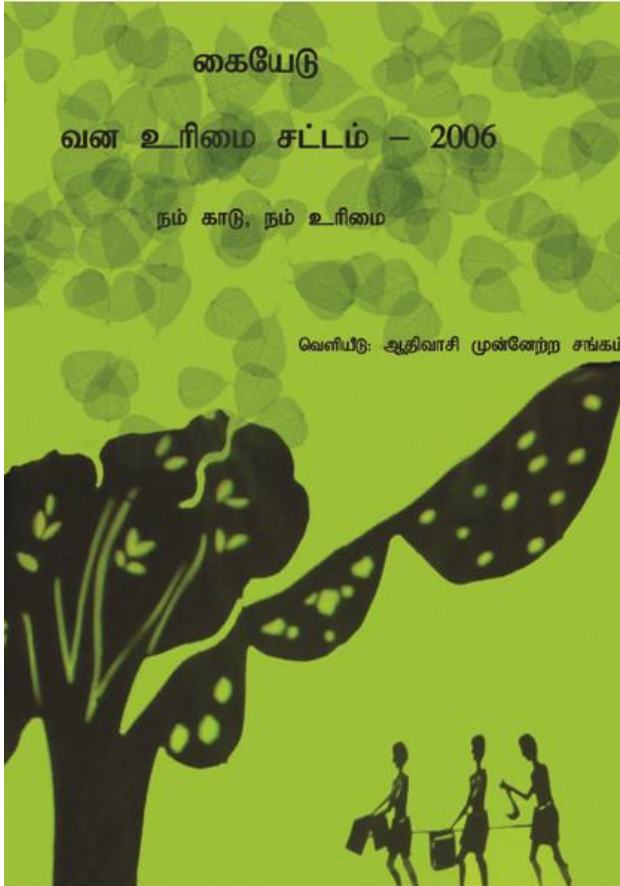
*Figure: Pictures from the shadow puppet show*

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A committee formed by NGOs working in the Nilgiris district to oversee the process of implementation of the Act. This coordination helped consolidate the adivasis living in the entire district, to fix common deadlines and to prompt the district administration to take necessary procedural steps. Apart from enabling successful lobbying with the administration, this committee also ensured that all procedural steps under the Act and Rules were followed at all times.



Figure: Exposure visit to Vazhachal



Handbook on Forest Rights Act

#### சட்டத்தைத் தெரிந்து கொள்ளுங்கள்

##### • வன உரிமை சட்டம் என்றால் என்ன?

இந்த சட்டம், காட்டை சார்ந்து வாழும் மக்களுக்கும் காட்டில் வாழும் மக்களுக்கும் உரிமை அளித்துள்ளது. 2006 ஆம் ஆண்டு வன உரிமை சட்டம் முதன் முதலில் அரசால் அறிமுகப் படுத்தப்பட்டது.

##### • எதற்காக வன உரிமை சட்டம்கொண்டுவரப்பட்டது?

இந்த நாட்டில் உள்ள காடு முழுவதும் அரசுக்கு சொந்தமானது என்று அங்கிலேயர் ஒரு ஆணை இட்டனர். ஆங்கிலேயர் வரும் முன், காட்டை சார்ந்து வாழும் மக்கள் நிம்மதியாகவும், காட்டை அழிக்காமலும் வாழ்ந்துக் கொண்டிருந்தனர். மக்களின் வாழ்வுரிமையைக் கட்டுப் படுத்தினால் அவர்களையும் கட்டுப்படுத்த முடியும் என்று நினைத்தார்கள். பிறகு ஒரு சட்டம் அறிமுகப் படுத்தினார்கள். சட்டத்தில் காடு அரசின் கட்டுபாட்டில் இருக்க வேண்டும் என்று இருந்தது.



## **Rapport with the District Administration**

Historically there has been a lot of conflict with the forest department, especially in Gudalur and Pandalur Taluks. The limited level of accord between the district administration and the adivasis underwent a change when the District Collector and the Field Director found the adivasi community to be aligned with the district administration on a matter unrelated to the Forest Rights Act; namely, the issue of the Buffer Zone that had been somewhat arbitrarily drawn up around the Mudumalai Tiger Reserve. The adivasis, unlike other communities residing around the forest, did not have misplaced objections to the declaration of the Buffer Zone and felt that, with some amount of rectification and clarity, the Buffer Zone could be used as a tool of conservation without adversely affecting people living in and around the area, so long as their community rights inside the core zone were not compromised.

The Forest Department and the District Administration, at least at senior levels, realised that it is best to work more closely with the tribals in the interests of forest conservation through the mechanisms under the Act. Though initially they did not see eye to eye with NGOs on the matter of constituting Special Adivasi Gram Sabhas for the purposes of the Act, after dialogue they were convinced of the need for the same, and lent support for the constitution of such bodies.

## **Constitution of SDLCs and DLCs**

The Sub Divisional Level Committees (SDLCs) and District Level Committees ('DLCs') were hurriedly constituted in August 2008 under a certain amount of political pressure. These committees were formed by the District Collector. As per the Act these committees should have representatives from the Revenue Department, Forest Department, Tribal Welfare Department and forest dwellers who are also Panchayat members. When it was first constituted, the tribal representatives were arbitrarily chosen without them even knowing of their membership on such committee. That has changed now with the active participation of tribal representatives in the SDLC meetings at least.

## **Filing and Submission of claims**

Each Gram Sabha appointed 15 members for their Forest Rights Committee (FRC) soon after the formation of the Gram Sabhas as required under the Act. There are 30 FRCs in Gudalur and Pandalur Taluks. As specified in the Act, atleast one-third of the FRC members are women.

Together with the AMS leaders, the FRCs undertook the task of compiling the individual (Form A) claims for recognising rights of individual occupation and cultivation in the forest under Section 3(1)(a) of the Act. Similarly, the FRCs filed and submitted community (Form B) claims for recognition of rights to collect and sell minor forest produce, access water bodies. Sacred groves, burial grounds in the forest under Sections 3(1)(b), 3(1)(c), 3(1)(d) and 3(1)(l) for their Gram Sabhas. The 31 Gram Sabhas have submitted 2224 claims (1911 individual claims and 313 claims) to the SDLC in 2009. Annexure 1 provides Gram Sabha wise details of claims submitted.

## Community Forest Resource Mapping

When the FRA process was initiated in Gudalur in 2009 with the formation of the Gram Sabhas, the focus had been primarily on individual rights. While community claims were filed (Form B) together with individual claims in 2009, the process for the former had not been duly followed due to the limited understanding of the provisions of the Act pertaining to the process and evidence required for the community claims.

For different reasons, ACCORD shifted its focus on community and CFR claims in 2013. As specified in Section 3(1)(i) of the Act, CFR rights recognize the right of communities to protect, regenerate and manage their forest. This coincided with the time the Amendment of the Rules of the Act came into force which provided greater clarity on the process of recognition of CFR. Given that most customary and ancestral boundaries of adivasis in Gudalur have been lost, ACCORD built the understanding that CFR defines the resource use area of a hamlet/village/Gram Sabha. After discussions with community organizers, it was decided that CFR claims would be made Gram Sabha wise as the resource use area for all hamlets/villages in a Gram Sabha is the same. This meant that each Gram Sabha would prepare one CFR claim for all its villages/hamlets. With that consensus, ACCORD set out to facilitate the implementation of the CFR recognition process.

-As a first step towards implementation of CFR process, ACCORD organized multiple trainings with community organizers and Gram Sabha leaders. Trainings were conducted to teach community members the use of GPS, to convert 3D into 2D on paper for the purpose of drawing maps, to read toposheets and other GIS maps.



-The second step was conducting meetings with members of FRCs and traditional elders to identify the resource use boundaries of their Gram Sabhas. These boundaries together with important resource use areas for Gram Sabhas were drawn on chart papers.

The names of important resource use landmarks are being noted in the Adivasi language and we found that most of these places have been named on the basis of presence of predominant geographic and natural elements. For example, '*aane parai*' is a rock that is shaped like an elephant and is an important resource use area for communities. These names are being recorded and we learnt during the exercise of mapping the resource

boundaries that it is mostly the elders in the community who know and use these names.



-The next step was to digitize these maps. The initial idea was to get GPS coordinates of all important landmarks inside or along the resource use boundary of the Gram Sabha and then use GIS techniques to superimpose these points on toposheets and prepare digitized maps. ACCORD sought technical inputs from its sister organization, The Shola Trust for digitization purposes and learnt that most landmarks were identifiable on the toposheets or satellite images. Wherever this was not the case, the community organizers carried out GPS survey of these landmarks and provided The Shola Trust with the coordinates. Following this, the maps were digitized by The Shola Trust team.

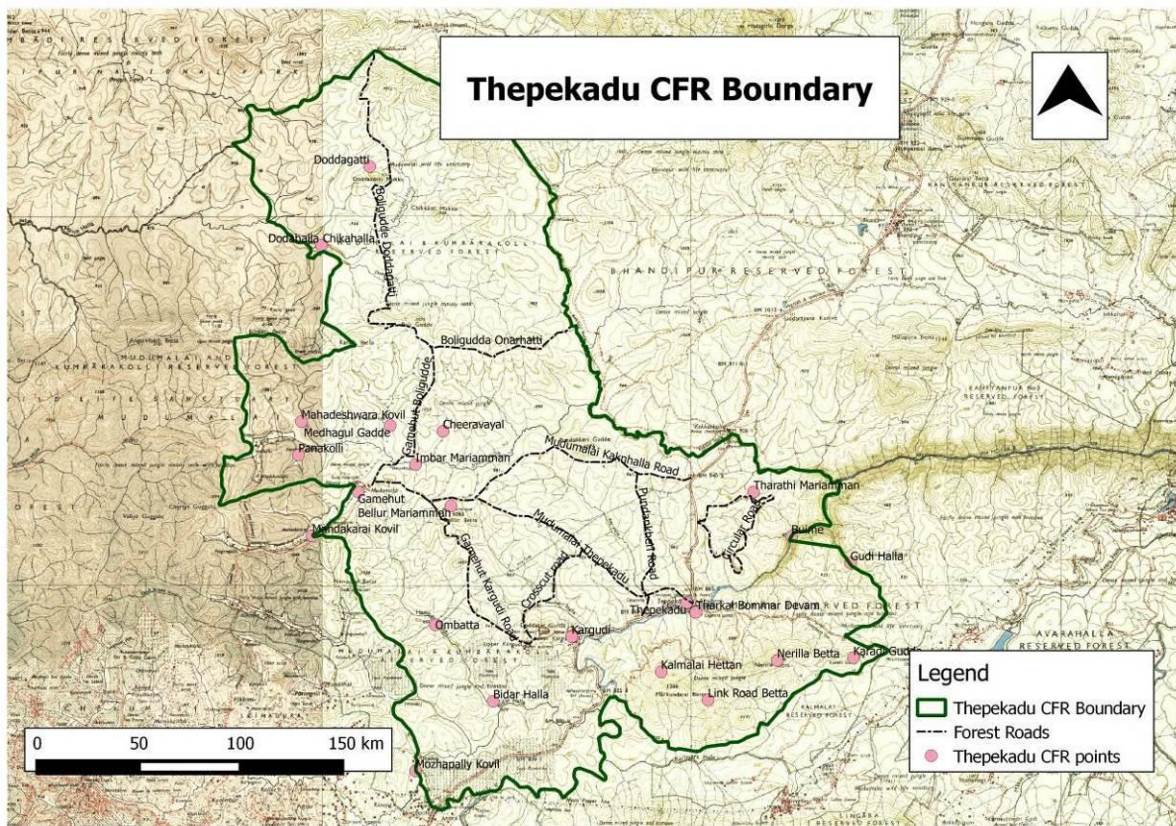


*Figure: Identifying resource use areas on toposheets*

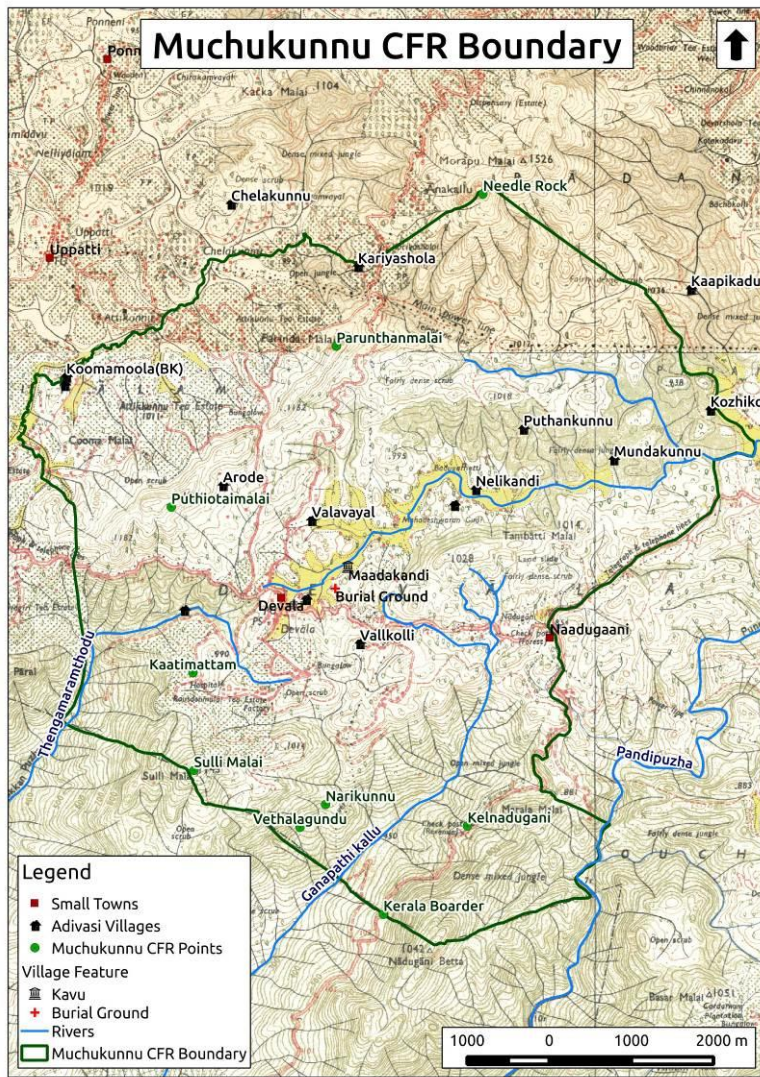


The ideal situation for digitization of maps would have been to use a single base layer for all Gram Sabahs, preferably toposheets. This was straightforward for Gram Sabahs where the resource use areas fell completely inside the Tiger Reserve and in cases where the land use has not changed much since the development of toposheets in early 1970s. However, in many other cases, the land use is not the same as seen on the toposheets. This is especially true in areas which have not been legally classified as forest and where the landscape is highly fragmented with alternating small forested patches and larger tea estates or coffee plantations or agricultural holdings. In these cases, the use of toposheets was not practical and satellite images were instead used to identify and mark the resource use landmarks.

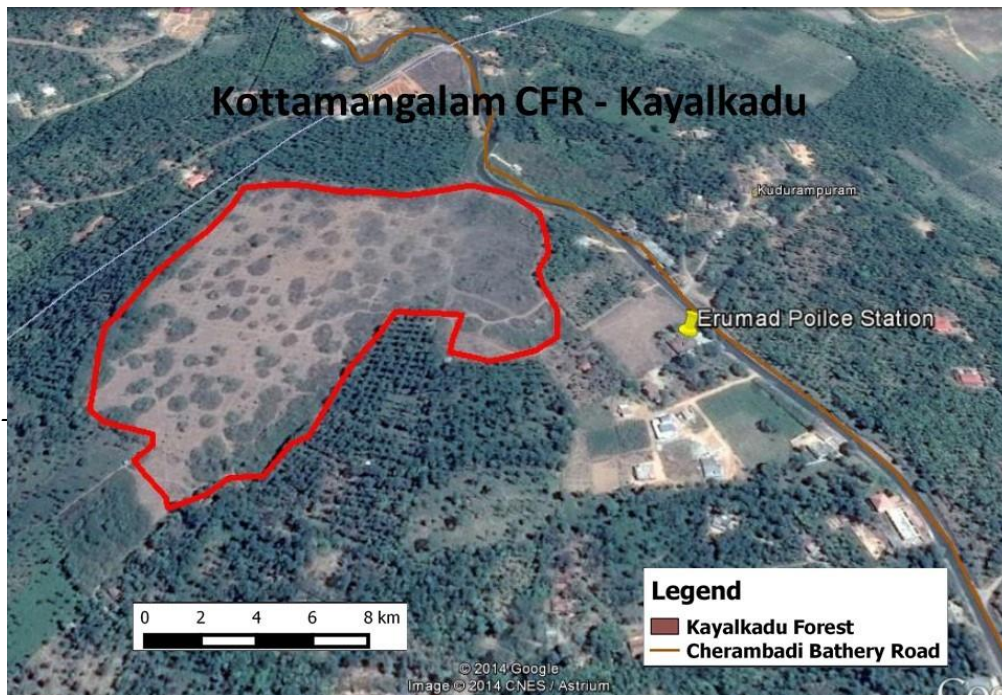
The following maps can perhaps better explain the context mentioned above.



Above: The CFR boundary of Thepekadu Gram Sabha falls entirely inside Mudumalai Tiger Reserve



Above : The CFR boundary of Muchukunnu Gram Sabha includes reserved forest as well as tea estates and patta land – the land use has however remained predominantly the same.



Above: The Kottamangalam CFR includes a small patch of forest that sits between tea plantations and agricultural landholdings by the side of a highway.

-Post mapping, the FRC prepares the CFR claim and presents it to the Gram Sabha for approval. Once the claim has been approved by the Gram Sabha through a resolution passed by 50% of its members, it is forwarded to the SDLC. 5 such CFR claims from 5 Gram Sabhas have been submitted so far in Gudalur and Pandalur Taluks as of March 2015.



*Gram Sabha meeting in progress*

-Unlike other States, the process of verification of claims in Gudalur is carried out post submission of claims to the SDLC. The Gram Sabhas that have submitted the claims are now in the process of inviting the officials from the Forest and Revenue Department for verification.

### **Development of conservation and management plan**

Forest Rights Act provides for different ways to recognize the CFR rights of forest dwelling communities to conserve and manage forest. There is the constitution of committees from among the Gram Sabha members under Section 5 of the Act who are responsible for wildlife and biodiversity conservation of their forest. These committees meet and decide on resolutions for the protection and management of their forest and have these resolutions passed in their Gram Sabha meetings. This is not a one-time thing and the protection and management committees can call for these meetings as and when they need. There is also the conservation and management plan that communities can prepare for their resource use area. This plan is then integrated into the working plan of the Forest department. This process is more along the lines of formulation of the Forest Department's working plan for a certain number of years, except that this is entirely community based.

In Gudalur, ACCORD plans to use a combination of these processes. The first step towards it has been to conduct interviews with community members, especially elders to

understand their perspective on the changes in the forest over several years and the factors responsible for the change. The idea behind these interview has also been to assess the scope of CFR by understanding the community's perception on the change in their traditional forest related practices, the threats to the forest, if any and their recommendations to address the threats.

These interviews are in the process of being transcribed and compiled but overall, the communities see a huge scope for CFR. The adivasi community in Gudalur has witnessed severe encroachment of their forest by both the Forest Department and immigrants over several decades now. Large tracts of forest have been converted into tea estates. The community found itself powerless and defenseless against the encroachment. With the decrease in forest cover, the community also witnessed a decline in their traditional forest based livelihoods. The Forest Rights Act has emerged as a tool of power against such processes. The community realizes that the provisions of CFR can be used to check further encroachment of the remaining forest. There are many instances where the Forest Department, in its attempt, to get ownership of unclassified land, planted trees like eucalyptus and pine, which have little or no value for the adivasi community. The community is also looking at using CFR provisions to regenerate some of their traditional grass, plant, tuber and tree species which are not as abundant as they used to be in the past. There are also cases where bad practices by the Forest Department and immigrants, mainly tea estates have led to a deterioration of the community forest resources. The community is looking forward to using CFR to put a check on such practices.

While formal management plans have not been developed yet, discussions have been initiated with the community. There is a sense of doubt within the community regarding the actualization of these rights just as there were doubts when the community was first informed that they do not need passes from the Forest Department to enter the forest anymore. While the latter is getting internalized slowly and steadily with communities exercising their rights of access and use of forests fearlessly, it will take some more time before they believe and start asserting their management and protection rights.

## **Major Issues & Constraints**

**I) Land complexities:** Gudalur has a long history of legal ambiguity regarding land, largely due to The Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969. It is beyond the scope of this report to elaborate upon the many complexities that exist with the existing land classifications in Gudalur, but let it suffice to say that after a history of litigation much of the land in Gudalur and Pandalur continues to be disputed. In this report, an attempt is being made to include such classifications that have relevance for the implementation of the Forest Rights Act.

A large number of claims from Gudalur and Pandalur taluks have been returned to the Special Tribal Gram Sabhas by the SDLC on the basis that they have been filed on land classified under Section 17 of the Janmam Abolition Act. Section 17 land does not fall clearly under either the Revenue or the Forest Departments and thus little action is taken on any land classified under Section 17.

However, the Section 17 land classification issues should not prevent the granting of rights under the Forest Rights Act. The Act clearly states under section 3(1)(f) that it is applicable

to areas with disputed land classifications. Further, making decisions regarding the applicability of the Act is not the role of the SDLC, which only has the right to return a claim in the instance that additional evidence needs to be furnished in order to substantiate the claim.

While Section 17 is perhaps the most complex land classification that exists in Gudalur, there are a few more land classifications that add to the complexity. The Gudalur Janmam Abolition Act also provides for what is called the **Section 53 land**. These are forested areas, which by common knowledge are under the Forest Department's control but not necessarily in the records of the Forest Department. This is the case because settlement of most of such areas and official handing over to the Forest Department had not been done yet until very recently. While claims on Section 53 land have not been returned, the SDLC has not initiated the survey of claims either made on this land. This process of settlement has picked up pace in the last few years one can that lack of clarity on the status of Section 53 land cannot be cited as an excuse for not processing the claims.

Then there is **Assessed Waste (AW)** land which is technically a classification under the Revenue Department. However in 1986, an order was passed by the then Chief Minister of Tamil Nadu for the Forest Department to plant trees on all empty land that faced imminent threat of encroachment from the recent settlers. Most of such land came under the AW classification. Accordingly, the Forest Department planted eucalyptus and pine trees on such land. This step is seen as an attempt to transfer the ownership of AW land to the Forest Department. So while on paper, the ownership lies with the Revenue Department, in real terms, the Forest Department is in control of it. Most claims made on AW land have been returned by the SDLC to the Gram Sabhas. **Village Grazing Ground**, also called VGG exhibits similar complexity.

**II) Legal Complexities:** Soon after the FRA was notified in 2008, a spate of cases were filed challenging its constitutional validity. These cases were filed in many parts of the country, including Karnataka, Odisha, Tamil Nadu, and Andhra Pradesh. All of these cases argue that:

- Both the Indian Forest Act (1927) and the Wildlife Protection Act (1972) adequately protect the rights of tribals.
- The inclusion of the category, Other Traditional Forest Dwellers, could encourage false claims. The Act violates a system of forest management which should be treated as part of the Constitution and hence cannot be changed.

In Tamil Nadu, there were two different cases: one filed in the Madras High Court and another in the Madurai Bench of the Madras High Court. Following the filing of the cases, an interim order was passed by the HC in February 2008 which prohibited the felling of trees and issuing of patta (title deeds) under the provisions of the Forest Rights Act (2006). In April 2008, a Special Leave Petition was filed in the Supreme Court of India by the Kurumbas Adivasi Munnetra Sangam against the HC's interim order and the Writ Petition was transferred to the Supreme Court (SC). The SC then directed that a petition may be filed in the Madras High Court for vacation of the stay order. The HC finally modified its earlier order saying that verification of claims may continue with the stipulation that, prior to issuing of patta and felling of trees, an order must be obtained from the court.

The High Court order clearly says that the process of recognition of rights should continue as required under the Forest Rights Act. This means that there is no stay on the process of claim filing and verification at the Gram Sabha level as well as no stay on processing and recognition of claims at the SDLC and DLC level. The District Level Committee has to forward the claims to the High Court for approval. However, the order from the Madras High Court has been widely misinterpreted as a stay against the FRA. Further, a number of claims from the Gudalur and Pandalur taluks have still not been sent to the court by the DLC, with the stated reasoning being that the courts will take too long to process the claims. Due to this, the entire process of recognising rights under the FRA has been stalled.

While similar orders issued in other states have been vacated, Tamil Nadu remains the only state which continues to impose such restrictions on the formal recognition of rights under the FRA. The AMS and nine other groups have submitted impleading petitions in this case. A copy of the impleading petition has been provided in Annexure 2.

**III) Poor Functioning of Government Agencies:** Unfortunately the role of the government agencies has been quite counter-productive in the entire process. Several claim forms have been misplaced at the SDLC level and the Gram Sabhas have been informally asked to resubmit their claims, making the legality of these claim forms a joke.

There is very little knowledge among officials at the range and taluk levels about the Act. In the Gudalur Taluk particularly, government officials responsible for the Act at the SDLC level are transferred very frequently and every new official comes with his or her own interpretation of the Act and turns things around which leads to no progress. FRA is also being looked upon as a scheme rather than an Act of the Central Government by government officials, especially the Forest Department wherein certain committees need to be constituted, certain number of meetings need to be conducted, etc. The Government is using the forum of SDLC meetings to discuss government schemes and benefits. It appears to be a deliberate attempt on the part of the Government to digress the discussion towards development with no emphasis or mention of rights. With such attitude towards the Act, the spirit of the Act is getting defeated.

The SDLC and DLC meetings are hardly held. Through consistent efforts from the Gram Sabha leaders over the last 2 years, the SDLC meetings have started to happen more regularly. However, the DLC meetings are almost unheard of. Similarly there exists a State Level Monitoring Committee (SLMC) for the Act in Tamil Nadu which has met only once ever since it came into being in 2009. Clearly, the forum for discussion of FRA among government officials is heavily underutilized which reflects the lack of prioritization of the issue of rights of forest dwellers among them.

**IV) Changing aspirations:** The Adivasi society in Gudalur, like many other Adivasi societies across the country had its roots in subsistence economy derived from forest and hunting, food gathering, etc. As the influence of the dominant population in Gudalur started to grow with the influx of immigrants 1960 onwards, the subsistence economy suffered a huge blow and has been steadily making way for cash economy. Dependence on forest for livelihoods has also reduced for many reasons, the primary reason being the restrictions on collection of forest produce. These restrictions accelerated the shift to cash economy. Forest has stopped being the primary source of sustenance and livelihood for

forest dwelling communities in Gudalur now.

Dependence on forests for food, medicinal plants and firewood continues to be all year around and that for livelihoods is highly seasonal. Employment in the form of wage labour in estates and plantations is easily available. The adivasi children are now going to school. It is difficult to state with confidence the impact formal education will have on their relationship with forest. But one can see several evidence of the younger generation entering the mainstream with little knowledge about forest and culture in general.

However, for a society that has a strong association with forest developed over many generations, such relations might not easily fade away. It remains to be seen if forest based livelihoods would see a revival with the introduction of an Act that puts an end to these restrictions.

**V) Other Challenges:** Tamil Nadu has been extremely laid back with the implementation of the Forest Rights Act in the state. With the tribal population as low as 1% in the state, there is not enough pressure on the government here, unlike other states to take up the implementation on a priority basis.

There is limited awareness among the forest watchers and guards, who interact with the community on a daily basis about the Act. Occasional cases of Forest Department continuing to harass the community when they go into the forest to collect minor forest produce are reported. For instance, rumours were spread in 2014 that cameras had been installed all across the Tiger Reserve and any adivasi caught on the camera would be punished. Clearly this was a strategy on part of the Forest Department to instil fear in the minds of the people. All of this is done very informally. While this is often a huge challenge that presents itself quite often, ACCORD has used it as an opportunity to re-initiate the dialogue with the community and try to reinforce their faith in the historic Act which protects their rights in the forest.

Another limiting factor has been the fact that there has been very little progress with FRA for the communities to see in the last 5 years. In the absence of much visible progress, it will become difficult to keep the interest and motivation of the community sustained. The delay in the settlement of claims might result in disillusionment among the community about the entire process.

## **Way Forward**

The campaign for forest rights has emerged as a political movement in the Gudalur Forest Division. On 15<sup>th</sup> December, 2014, Gram Sabhas staged a public demonstration outside the taluk office where Gram Sabha members turned up in large, overwhelming numbers to demand speedy implementation of the Act. Violations of forest rights by government officials, if any, get reported formally or informally by the community. The energy needs to be sustained and channelled properly and strategically to achieve visible results and address the challenges mentioned before. Annexure 3 provides case studies from the impact of ACCORD's work on FRA over the last 6 years.

Over the last two years, ACCORD has been fairly successful in establishing the power of the Gram Sabhas as the most important and powerful body for the implementation of the

Act. This has been complimented with building understanding among Gram Sabha leaders about their roles and responsibilities. Realizing that the formal recognition of rights through settlement of claims might take forever given the current state of affairs, it is now understood that exercising rights of access, sustainable use and conservation of forest cannot be challenged once the claims under Form B and Form C have been approved by the Gram Sabhas. This is in compliance with the explanation provided against Rule 12(g) of the Act which states, *'the delineation of community forest resource ay include existing legal boundaries such as reserve forest, protected forest national Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of community forest resources.'* Such understanding has helped tremendously in increasing the confidence of the community to exercise their traditional rights.

While community mobilisation is perhaps the most important aspect for the forest rights movement, negotiating with government stakeholders is very important too. The Special Tribal Gram Sabhas are emerging as a crucial institution by which the community can interact with the government on a more equal footing. The Gram Sabha leaders have been engaging with the Revenue and Forest Department officials at the Taluk level quite regularly. The engagement with the stakeholders at the District and the State level needs to be focussed upon equally. To this effect, a few Gram Sabha leaders have planned to visit the District Collector, who is the Chairperson of the DLC in July, 2015 to discuss the progress and hurdles with the implementation process. Another objective would be to ask for DLC meetings to be conducted more regularly to expedite the process of settlement of claims. The plan is to have these visits to the District office once every three months.

As mentioned previously, Tamil Nadu remains the only state where not a single title deed has been issued till date. This is primarily because of the High Court Order. Adivasi Munnetra Sangam (the community organization ACCORD works with) has filed an impleading petition in the case. ACCORD should direct greater energy in following up on the petition and ensure that it is brought up for hearing. The High Court order requires permission to be obtained from the Court before title deeds can be issued. One strategy to make the case stronger is to lobby with the Taluk and District Administration to process all the claims from one Gram Sabha at their levels respectively and send them to the Court for permission. AMS could use this Gram Sabha's case to highlight the delay caused in issuing title deeds because of the Court order.

## **Conclusion**

The FRA is a landmark legislation which seeks to correct a historic injustice to the disenfranchised Adivasis, the original inhabitants of the Nilgiri Biosphere Reserve. A committed group of activists have been attempting to resolve the complexities and ensure that rights guaranteed by the FRA reach its beneficiaries. However, the journey still has a long way to go, principally due to seemingly well-intentioned legal battles, a multitude of laws at cross-purposes with each other, and lassitude among the many administrative bodies constituted under the Act.



Annexure 1: Gram Sabha wise list of claims

Sl. No.	Gram Sabha	Number of villages	Number of households	No. of individual claims	No. of community claims
1	Nagampalli	6	81	81	6
2	Karkapalli	19	224	108	19
3	Kadichankolly	5	145	115	5
4	Therpakolly	11	254	168	10
5	Gulimoola	5	76	54	5
6	Uppatti	12	161	79	12
7	Odakamvayal	8	99	67	8
8	Kadalakolly	12	194	59	11
9	Ezhumaram	11	275	73	10
10	Ellamalai	4	49	35	4
11	Kodamoola	10	238	66	10
12	Kamrajnagar	3	51	26	3
13	Melambalam	7	107	64	7
14	Kanjikolly	12	196	112	18
15	Muchukunnu	7	128	NA	8
16	Cholady	5	108	7	5
17	Benne	4	42	Not submitted	Not submitted
18	Thanjora	24	294	36	24
19	Thepekad (Light padi)	3	173	173	3
20	Kozhikolli	5	109	99	5
21	Thepekad (Camp padi)	2	102	102	2
22	Chembakolly	7	184	128	8
23	Kappala	11	206	8	11
24	Paingal	15	185	4	13
25	Kappukunnu	17	344	38	18
26	Kottamangalam	14	172	0	14
27	Koomamoola	8	150	44	8
28	Ambalamoola	NA	NA	34	13
29	Kallichal	NA	NA	24	17
30	Murukkambadi	NA	NA	67	20
31	Thirkabetta	NA	NA	40	16

Annexure 2: Impleading Petition Filed by Adivasi Munnetra Sangam (AMS)

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
(SPECIAL ORIGINAL JURISDICTION)

W.M.P. No. OF 2014

IN

W.P. NO 4533 OF 2008

Adivasi Munnetra Sangham

Rep. by its Secretary Mr. B. Bomman

12/669-B, G.A.H. Building

Thottamoola

Gudalur - 643 212

Petitioner

3rd Party /

VS

1. Mr. V. Sambasivam IFS (Retd.)

No. 9, II street

Athereyapuram

Choolaimedu

Chennai - 600 094

2. Govt. of India

Ministry of Tribal Affairs

Rep. by its Secretary

Shastri Bhavan

New Delhi - 110 001

3. Govt. of India

Ministry of Environment & Forest

Rep. by its Secretary

Paryavaran Bhavan

CGO Complex, Lodhi Road

New Delhi - 110 003

4. Director General of Forest

Ministry of Environment & Forest

Paryavaran Bhavan

CGO Complex, Lodhi Road

New Delhi - 110 003

5. The Chief Secretary

Govt. of Tamil Nadu

Fort St. George

Chennai - 600 009

6. Govt. of Tamil Nadu

Department of Forest Environment & Ecology

Rep. by its Principal Secretary

Fort St. George

Chennai - 600 009

7. The Principal Chief Conservator of Forests

Panagal Building

Saidapet

Chennai - 600 015

8. Adivasigal Kurumbas Munnetra Sangham  
Registered No. 8 of 1997  
Rep. by its Secretary  
N.M. Balan  
Erumadu  
Kunnanche Post  
Bandalur Taluk  
Nilgiris District - 643239

9. Mr. V. Alagesan  
President/Executive Officer  
Sitheri Post Grade Panchayat  
Sitheri Post  
Pappirettipatti Panchayat Union  
Pappirettipatti Taluk  
Dharmapuri District - 636 903

10. Mr. P. Subramani  
Nallamangadai Village  
Chitheri Post  
Pappirettipatti Taluk  
Dharmapuri District

11. Mr. V.K. Raja  
Thannimathipatti  
Semmedu P.O.  
Vazhabanthinadu  
Kolli Hills  
Nakkal District

12. Mrs P. Poongothai  
Villampatti  
Thikkampatti P.O.  
Chinnakalvanajanmalai  
Vadukkunadu  
Attur Taluk

13. Mrs Kalliammal  
Ekathur  
Kuthiyalathur Village  
Basavanapuram  
Sathyamangalam Taluk  
Erode District  
Respondents

AFFIDAVIT OF B. BOMMAN, THE PETITIONER

I, B. Bomman, son of Bomman, aged about 63 years, residing at 1/275, Kozhikandy, Ambalamoola Post, Sri Madurai, Nilgiris District, do hereby state on solemn affirmation as follows:-

1. I am the Secretary of the Gudalur Adivasi Munnetra Sangam and as such I am representing on behalf of the said Sangham. I am also the President of the Forest Rights Committee, Kanjikolli Special Tribal Gram Sabha, Sreemadurai Gram Panchayat, which has been constituted under the

Forest Rights Act 2006 and as such am fully acquainted with the facts of the case. I am competent to swear to this affidavit.

2. The above Writ Petition has been filed by the I Respondent for issuance of a Writ of Declaration to declare the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 and in particular Chapters II to IV of the Act as illegal and unconstitutional and has also sought for interim injunction restraining the Respondents II to VII from giving effect to the provisions of the said Act.

3. The Kanjikolli Special Tribal Gram Sabha is constituted under the Forest Rights Act 2006 comprising of 31 Gram Sabhas. Each Gram Sabha comprises of 8 villages. Of the 6 Tribal Groups in Tamil Nadu categorized as Primitive Tribal Groups by the Govt. of India, 5 of the tribes form part of the adivasis settled off Gudalur and Pandalur Taluks of Nilgiris Districts. There are 350 hamlets with a population of around 25000. There are currently 31 special adivasi gram sabhas in the said Taluks. Each of these Gram Sabhas has a committee comprising of 15 members. These Gram Sabhas have submitted over 1400 claim forms as required under the Forest Rights Act under their basic communities. Of these 303 forms have been investigated in Pandalur Taluk, 286 forms have been rejected for various reasons. Similarly, \_\_ numbers of forms have been investigated in Gudalur Taluk and \_\_ number of forms have been rejected. As many as \_\_ number of forms have been placed before the District Committee. The tribal groups are entitled to obtain title (patta) as per the Forest Rights Act. While land title is being issued in other states it is only in the State of Tamil Nadu that it has not been done till date. The reason attributed by the authorities is that the matter is pending before this Hon' ble Court and consequently no action can be taken pending disposal of the above matter.

4. The aforesaid Act was challenged before the High Courts of Andhra Pradesh and Orissa. I reliably learn that the Hon' ble Supreme Court of India has dismissed the SLP filed against the said Orders. The High Court of Andhra Pradesh by Order dated 01.05.2009 passed in W.P. M.P. No. 23208 of 2008 and 2566 of 2009 in W.P. No. 21479 of 2007 has held that the authorities are permitted to issue certificate of title to the eligible forest dwelling schedule tribes and other traditional forest dwellers under the Act and that any grant of such certificates will be subject to the result in the main writ proceedings challenging the legislation. It has also held that the said certificates are also subject to their enquiry or verification on the objections pointed out by the Petitioners or otherwise and that the Petitioners are permitted to seek details and particulars and obtain the necessary copies in relation thereto and raise their objections. In all these writ petitions forest officials are the petitioners and they have uniformly claimed that the Indian Forest Act and its successor the Wildlife Protection Act provide adequate protections. The forest department has correctly implemented the law and consequently there is no need to implement the current Act as it would only encourage false claims over forests and forest land leading to destruction of forests. Majority of the writ petitions have identical pleadings.

5. It is thus evident that the intention of the retired forest officials is only to ensure that the provisions of the Act are not implemented. The High Court of Orissa following the Orders of the Andhra Pradesh High Court, by its Order dated 12.08.2009 removed the obstacles from implementation of the Act in full. The Hon' ble Supreme Court of India by Order dated 04.05.2009 declined to stay the implementation of the Forest Rights Act. As forest dwellers the adivasis of Gudalur and Pandalur Taluk will be vitally affected by the decision to be rendered by this Hon' ble Court without being given an opportunity of being heard. The Act itself is a beneficial legislation to protect our rights and hence we have a right to participate in the above proceedings and express our plight and views due to the non implementation of the provisions of the Act. The adivasis of Gudalur and Pandalur Taluk are not only necessary but proper parties to this proceeding. In my capacity as Secretary of the Adivasi Munnetra Sangam and the President of the Kanjikolli Special Tribal Gram Sabha, Sreemadurai Gram Panchayat, I am seeking to implead myself to represent the interest of the forest dwellers in the above Writ Petition. No prejudice will be caused to the Respondents if I be impleaded. Balance of convenience is in my favour.

6. It is therefore prayed that this Hon' ble Court may be pleased to implead me as a Party Respondent in the above Writ Petition and pass such further orders as this Hon' ble Court may deem fit under the circumstances of the case.

Solemnly affirmed in Gudalur  
on this    day of March 2014 and  
signed his name in my presence

Before me  
Advocate, Gudalur

## Annexure 3: Case studies

### Case Study 1 – Renegotiating: Adivasis and Forest Department

“You adivasis now have a higher status than us in the forest!” said the forester to the Kattunyakans in Mudakunnu village. Coming from the Forest Department, a statement of this kind does not merely come across as a surprise but rather a shock. Was it a kind, gentleman like forest official brainwashed of his colonial construct making that statement? No. The statement was instead a part of an apology for an act of violation of adivasi rights committed by the Forest Department.

Mundakunnu is a beautiful Kattunayakan village nestled in the heart of the forest where the nature and extent of dependence of adivais on the forest has not changed much. The previous honey season saw the Kattunayakans in the village collect honey from their forest fearlessly for the first time in several years. No threats were issued by the Forest Department. No knives confiscated. No bribes demanded. No arrests made. It was almost a miracle. By exercising their right, this village had now started to believe in the power of the Forest Rights Act. Just when it seemed like the Forest Department and adivasis were both understanding the historic Act better, an incident occurred.



*Mundakunnu Village*

On 6<sup>th</sup> July 2014, Chandran was away for coolie work when he received a call from his village. The news was not good. His coffee had been destroyed by the Forest Department. “I came back hurriedly but the officials were gone by then. Almost an acre of my coffee plantation had been cut down. My father had planted this coffee even before I was born.” His family could not think of any conceivable reason for the Forest Department’s act. They had received no communication from the Forest Department. The following morning, Chandran and some others from his village decided to meet the Forest officials in their office and demand an explanation. The forest guard and the watcher, the perpetrators of the Act, admitted to committing the act

with a sense of pride. The conversation between the two parties below:

**Forest Department:** *You have been planting new coffee in that area which is illegal.*

**Mundakunnu:** *That coffee is not new. We have had it for more than 20 years now. What you have done is wrong and we will file a complaint to the Revenue Divisional Officer (RDO) about this.”*

**Forest Department:** *You can threaten us all you want. Go ahead and file the complaint!*

Chandran’s coffee lies in what has been legally classified as Reserved Forest (RF). Such classification of forest is perhaps at best, arbitrary and at worst, exclusive of adivasis. So unless you have a title deed, any cultivation on RF becomes illegal. This is the weapon that the Forest Department has been using since colonial times to legalize their atrocities against forest dwellers and commit acts like the one in Mundakunnu. Then came the Forest Rights Act in 2006 to correct this historical injustice which recognizes the right of forest dwellers to live and cultivate in the forest, in addition to other community rights.



*Chandran and his friends show the damaged coffee*

Mundakunnu knew that they had legal backing for the (well-founded) ethical assertion that the Forest Department was wrong. The village decided to handle the matter strategically and patiently. They invited the Revenue Officer of Gudalur, Mr. Jaga Jyothi to visit the site and suggest a way forward. The RDO kindly agreed to oblige. He in fact went one step ahead and asked the concerned forest ranger to join him on his visit. However, on the day planned for the meeting, the Ranger, along with almost the entire Forest staff of Gudalur Division, was occupied in chasing a certain herd of elephants that had created much uproar by killing an adivasi man in another forest range. (<http://www.thehindu.com/todays-paper/tp-national/tp-tamilnadu/death-of-a-man-in-elephant-attack-triggers-tension/article6330459.ece>)

Keeping the Ranger’s commitments in mind, another date was duly fixed. Again, the Ranger did

not show up; this time without providing an appropriate reason. Almost a month and half later, the RDO gave up waiting for the Ranger and went ahead with his plan of visiting the site. After assessing the extent of damage, he promised Chandran's family compensation for the destroyed coffee. However, the Forest Department needed to be part of the decision too.

Another month passed by and there was no news from the Forest Department. Clearly the Forest Department assumed that the incident would be soon forgotten by the people. But Mundakunnu had a plan. After giving ample time to the Forest officials to respond, the people decided to take the legal route and file a case against the perpetrators. This was a bold step. Never before had the village mustered the courage to do so. The Forest Department was wrong. There were no two ways about it. Their Gram Sabha was backing them. "If these officials were not taught a lesson now, they would do it to someone else in future.", said Kichan, President of the Gram Sabha.

The dynamics changed drastically.

The day after they filed the case, Mundakunnu received a call from the Forest Department. The calls followed for a few days. Each time, the same 'request' – withdraw the case. As if that demand wasn't too big, they also asked the village to come to their office, discuss the matter, negotiate the terms and arrive on a compromise. The village determinedly refused each time. "They should come to our village if they want to talk to us."



*Chandran and his friends relax on a guava tree in their forest*

The determination paid off. A few days later, the Forester and the guard (one of the perpetrators) came to the village with the hope that people would oblige to the solution they offer. They presented the deal. "We will not enter your village without your permission in future. Just let it go this one time. Take our word that it will not happen in future. You adivasis now have a higher status than us in the forest."

A complete shift in the attitude! Who would have imagined that a group of adivasis who had been living in constant fear of the Forest Department for many generations get the Forest Department to apologise to them.



## Case Study 2 – Forest Rights Act: A political movement

On 15th December, 2014, members from 31 Tribal Gram Sabhas of the Gudalur and Pandalur Taluks organized a public demonstration to demand their rights in the forest. These Gram Sabhas have been constituted under the historic Forest Rights Act, 2006 which confers very special rights on tribals. However, the implementation of the Act in all districts of Tamil Nadu including the Nilgiris has been abysmally poor. The protest was in response to the very slow progress with recognizing rights of tribals in the forest.



### **Demands:**

- Gram Sabha's resolution should be upheld and respected during verification of claims.
- There should not be any restrictions on tribals to access and use the forest for their livelihood and sustenance. If that continues to be the case, the Gram Sabhas would take appropriate action against those who impose such restrictions (as provided under Section 7 of the Act).
- Gram Sabhas should be provided adequate support to implement their management and conservation plans.
- Forest Department should stop offering Rs. 10 lakh cash for relocation.
- Forest Department should provide land for relocation.
- Government should recognize rights on Section 17 land (as provided under Section 3(1)(f) of the Act).
- The development needs of the Gram Sabhas as provided under Section 3(2) of the Act should be addressed.
- Gram Sabhas should be provided funds for implementation of the Act.

- Gram Sabhas should be provided with a copy of the minutes of meetings of the Sub-divisional Level Committee, District Level Committee and the State Level Monitoring Committee.
- All government schemes should be implemented through the Gram Sabhas.

#### **Other Highlights:**

- Expected turnout - 800 people, Actual Turnout - 16000 people
- Protest funded almost entirely by contributions from Gram Sabha members
- Revenue Divisional Officer or RDO (Head of the Sub Divisional Level Committee) and Tahsildar (member of the Committee) hidden from the crowd

#### **Immediate Outcome(s):**

- Increased motivation and awareness among Gram Sabha leaders and members about their rights (also possibly long term outcome - needs to be sustained)
- Protest covered in local newspapers and TV channels (SUN TV)
- Meeting of Gram Sabha representatives with RDO the following day
- RDO promised to pay heed to demands of the Gram Sabha

Following the public march, the Chairperson of the SDLC called for a meeting with Gram Sabha leaders. It was the first occasion where the chairperson sent out formal invites to the Gram Sabha leaders to attend the meeting. We believe it is a step towards providing the Gram Sabha leaders recognition that they deserve.

#### **Case Study 3: “Are you an Adivasi?”**

There had been a demand from the Gram Sabha and community leaders to become knowledge holders of different provisions of the Act that would enable them to negotiate better with government. We prepared and printed a handbook for the FRC members containing important provisions of the Act that are relevant to the Gudalur context. Gram Sabha leaders have reported benefiting from the booklet especially in meetings with government officials or in notices sent to government officials where they are able to refer and quote from it. This not only has created a greater confidence in the leaders but has also created respect from the officials.

At a recent SDLC meeting, the Chairperson of the committee blamed the status of Section 17 land which is disputed for the slow processing of claims. Never before have the FRC leaders been able to challenge such statements from government officials. This time was different. One of the FRC leaders quoted the section of the Act which recognises the rights of forest dwellers on disputed land. He went on to quote other sections of the Act from the book to every question/objection raised by the government representatives at the meeting. It shocked them very much, so much so that the Chairperson of the committee asked the FRC leader if he was an Adivasi!