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Commercial Crop Cultivation Is Not a Forest Right: Supreme Court Lays Down Limits Under the Forest Rights Act, 2006

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The SC has **restricted the scope of activities in protected woodlands, ruling that commercial crop cultivation cannot be claimed as a forest right under the Forest Rights Act, 2006.** The court clarified in order dated 6 November 2026 by Vikram Nath and Sandeep Mehta JJ. in ***A. John Kennedy & Ors. v. State of Tamil Nadu & Ors., 2026*** that the FRA was enacted to protect traditional sustenance and bona fide livelihoods, not large-scale commercial exploitation. This judgment establishes a crucial legal precedent to prevent ecological degradation while outlining the strict statutory limits of community rights.

Why This Order Matters

The Court had to decide who can claim protection under the Forest Rights Act, 2006 (FRA) in the Megamalai region of Tamil Nadu. The area is part of the Srivilliputhur-Megamalai Tiger Reserve and the larger Agasthyamalai landscape.

It also tested whether a state can justify cultivation inside a reserved forest by calling a commercial crop “minor forest produce”.

Background

On 29 May 2026, the Court issued directions for time-bound eviction, rehabilitation and ecological restoration in the Agasthyamalai landscape.

These included a division-wise eviction plan, action against identified government servants, and a bar on approving new non-forestry activities until compliance. Later applications raised the FRA’s application to people living in or cultivating land in Megamalai.

The State's own affidavit showed 4,594 persons occupying 5,072.64 hectares of forest land, of which 3,637.83 hectares were under silk cotton. The occupants fall into three categories: Category I, 1,595 persons permanently residing inside the forest and cultivating; Category II, 232 persons cultivating with only temporary residence; and Category III, 2,767 persons living outside the forest boundary but cultivating inside it.

Contentions

State of Tamil Nadu (Revenue Department): Silk cotton was grown for a long time with the tacit sanction of the authorities, when the land was not reserved forest in its present notified form, and was treated as minor forest produce. The FRA came only in 2006, so earlier proceedings cannot be judged by it. The State no longer encourages the cultivation and has not issued pattas on reserved forest land.

State of Tamil Nadu (Social Justice Department): The FRA is a special law, so claims must be determined through its three-tier process before anyone is treated as an encroacher. The process was delayed, partly because a Madras High Court interim order stalled implementation until the Supreme Court vacated it in 2016. About 40 Gram Sabhas had been formed and roughly 1,600 claims received.

Amicus Curiae: The FRA exercise should not reopen issues settled earlier. The 1978 forest settlement had invited claims, and the Madras High Court's 2022 judgment relied on that. Mere residence or cultivation does not create a right, and persons living outside the forest or with only temporary residence cannot claim as forest dwellers. The Central Empowered Committee (CEC) should supervise the process to weed out fake claims.

Issues

- Who qualifies as a Forest Dwelling Scheduled Tribe (FDST) or Other Traditional Forest Dweller (OTFD) under the FRA?
- Can planned cultivation of silk cotton be treated as minor forest produce, and so as a forest right, to justify occupation of forest land?
- How should the claims process be supervised and completed?

Reasoning

1. Eligibility is strict. The Court stressed that the **FRA is a remedial law meant for communities who lived in forests for generations without recorded rights**, relying on *Orissa Mining Corporation v. Ministry of Environment & Forests* ((2013) 6 SCC 476). It read Sections 2(c) and 2(o) closely. A claimant must primarily reside in the forest and depend on it for bona fide livelihood. For an OTFD, that means three generations (75 years) before 13 December 2005. Claims must follow Section 6 and the Rules, not present occupation.

2. The Category II and III cultivators are out. *Persons with only temporary residence, and those living outside the forest boundary, cannot qualify as FDST or OTFD on the basis of cultivation alone.* The Court excluded them from FRA consideration.

3. Silk cotton is not minor forest produce on this record. The definition in Section 2(i) covers non-timber forest produce of plant origin, and Section 3(1)(c) protects traditional collection. The **Court said that planned plantation of a commercial crop is contrary to naturally occurring forest produce.** The State produced **no notification recognising silk cotton as minor forest produce, and historical promotion of the crop by authorities does not create a forest right.**

4. A tension in the State's affidavit. The State said no large commercial enterprise financed the cultivation, but its own figures show 2,767 persons living outside the forest cultivating inside it. The Court said this needs deeper examination by the CEC so that action can be taken against violators.

5. Conservation comes first. With Megamalai declared a tiger reserve, the sanctity of critical tiger habitat has primacy over any claim to encroach on forest land.

Directions

- Persons in Categories II and III are excluded from consideration as FDST or OTFD.
- A last chance of 30 days for the State to form the remaining Gram Sabhas, and then five months to complete claims through the three-tier mechanism.
- A Special Committee headed by former CJI B.R. Gavai, assisted by a CEC officer and the Principal Chief Conservator of Forests, will scrutinise the orders on claims, supervise disposal, and report in a sealed cover. The State must send monthly progress reports and bear the honorarium and expenses.

- The CEC must give its opinion on whether silk cotton can be treated as minor forest produce, and must examine who financed the cultivation.
- The Court also impleaded the State Law Department and transferred a monitoring responsibility to the Environment and Forests Department, and asked the CEC to respond to an NHAI application about a highway tunnel proposal, keeping in mind Section 3(2) of the FRA.

Ratio

Rights under the FRA belong only to those who meet the residence and dependence conditions in Sections 2(c) and 2(o), and claims must be decided through the Section 6 process, not on the basis of present occupation.

Planned cultivation of a commercial crop is not a forest right under Section 3(1)(c), and critical tiger habitat takes priority over encroaching claims. Media headlines present the commercial crop point as a firm holding, but the order itself calls it a prima facie view, while the exclusion of Categories II and III is a definite direction.

The FRA Provisions at a Glance

Provision	Content
Section 2(c)	FDST: Scheduled Tribe members who primarily reside in and depend on forest land
Section 2(o)	OTFD: three generations (a generation is 25 years) before 13 Dec 2005
Section 2(i)	Minor forest produce: non-timber forest produce of plant origin
Section 3(1)(a), (c)	Right to habitation or self-cultivation; right to collect, use and dispose of minor forest produce
Section 3(2)	Limited diversion of forest land for specified facilities, subject to Gram Sabha recommendation
Section 6	Gram Sabha, then Sub-Divisional Level Committee, then District Level Committee (final); State Level Monitoring Committee