

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 452 of 2015
and
M.P.No.1 of 2015

Devaraj

... Petitioner

Versus

The Revenue Divisional Officer
O/o. The Sub-Divisional Magistrate
-cum-Revenue Divisional Officer
Ponneri

... Respondent

Petition filed under Section 397(1) r/w 401 of Criminal Procedure Code against the order passed by the respondent in Na.Ka.No.1949/2014/A1 dated 16.04.2015.

For Petitioner : Mr. S. Giritharan

For Respondent : Mr. T. Arul
Government Advocate (Crl.side)

ORDER

The petitioner challenges the order dated 16.04.2015 passed by the respondent by which the respondent, in exercise of the powers conferred under Section 133 of the Criminal Procedure Code, directed the petitioner to remove the prawn farm put up by him.

2. This Court, by an order dated 03.06.2015 in Crl.R.C. No. 385 of 2015 had an occasion to consider the validity of an identical order passed by the respondent herein. In the order dated 03.06.2015 in Crl.R.C. No. 385 of 2015, this Court issued the following direction in Para Nos. 6 and 7, which reads as follows:-

"6. As per Section 133 of Cr.P.C. when the Executive Magistrate has taken up the job, he is bound to follow the procedures as contained in the Criminal Procedure Code. If the Government were to take action, necessary procedures have to be observed. However, as rightly pointed out by the learned Government Advocate (Crl.side) as per Section 138 of the Act, whenever, a show cause notice is issued, the petitioner can very well appear before the Magistrate concerned and adduce

evidence that he has not violated the Rules.

7. In view of such circumstances, in the interest of justice, the petitioner is directed to appear before the respondent, by treating the impugned proceedings as a show cause notice, within a period of one week from today and adduce evidence to show that there is no violation in running a Prawn Farm. In the event of such appearance, the respondent shall pass orders in accordance with law, after hearing all the parties concerned.

3. Having regard to the order passed by this Court in the above Criminal Revision Case and following the same, this Criminal Revision Case is also disposed of directing the petitioner to appear before the respondent and to submit his explanation by treating the impugned proceedings as a show cause notice, within a period of one week from the date of receipt of a copy of this order and adduce evidence to show that there is no violation in running a Prawn Farm. On such appearance, the respondent shall pass orders in accordance with law, after hearing all the parties concerned. Consequently, connected miscellaneous petition No. 1 of 2015 is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rsh

To

1.The Revenue Divisional Officer
O/o. The Sub-Divisional Magistrate
-cum-Revenue Divisional Officer
Ponneri

2.The Public Prosecutor,
High Court, Madras

+1cc to Mr.S.Giritharan, Advocate, S.R.No.27298

CrI.R.C No. 452 of 2015
and
M.P.No.1 of 2015

BVR (CO)
CA(01/07/2015)