

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Crl.R.C.No.720 of 2015

And

M.P.No.1 of 2015

E.Senthil Kumar

... Petitioner

Vs.

The Revenue Divisional Officer - cum -
Executive Magistrate,
Ponneri.

... Respondent

Prayer:

Criminal Revision Case filed under Sections 397 r/w.401 of the Criminal Procedure Code praying to revise the orders passed by the respondent in Na.Ka.No.1949/2014/A1 dated 16.04.2015.

For Petitioner : Mr.T.S.Rajamohan

For Respondent : Mr.T.Arul
Government Advocate

O R D E R

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.It is brought to the notice of this Court that, this Court in an identical issue, has passed an order in respect of the very same order passed under Section 133 of the Criminal Procedure Code in Crl.R.C.No.443 of 2015 on 09.06.2015. The relevant portion of which reads as follows:

"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.

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."

3.The learned Government Advocate would contend that the notice is dated 16.04.2015 and he was asked to appear on 20.04.2015 and even according to the petitioner, he appeared on 20.04.2015.

4.According to the petitioner, the respondent has not yet passed any orders and therefore, prays for similar relief in this revision also.

5.Having regard to the order passed by this Court in the above Criminal Revision Case and following the same subject to the condition that the respondent has not yet passed any orders so far, 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, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

pri

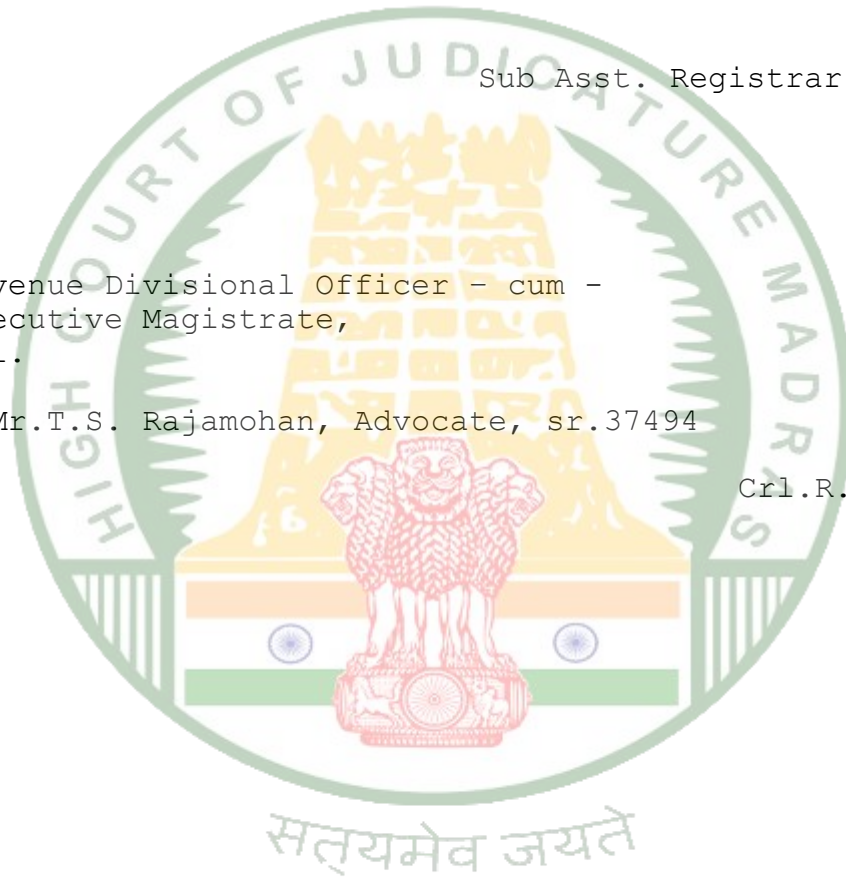
To

1. The Revenue Divisional Officer - cum -
Executive Magistrate,
Ponneri.

+1 cc to Mr.T.S. Rajamohan, Advocate, sr.37494

trj(co)
kra(28/07)

Crl.R.C.No.720 of 2015
And
M.P.No.1 of 2015



WEB COPY