

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.8.2015

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 775 of 2015

N.Kalaimamani @ Murugan

...Petitioner

Versus

The Revenue Divisional Officer - cum -
Executive Magistrate, Ponneri

...Respondent

Criminal Revision Case filed under Section 397 and 401 of
Cr.P.C. against the Order dated 21.7.2015 passed by the respondent in
Na.Ka.No.1949/2014/A1.

For Petitioner : Mr. T.S.Rajamohan

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

ORDER

The petitioner has filed this Criminal Revision Case as against
the order dated 21.7.2015 passed by the respondent under Section 133
(A) of Cr.P.C.

2. The petitioner is running a Prawn Farm at Periya Karumbur
village, Ponneri Taluk, Thiruvallur District. Since the drainage
water from the said Farm is being connected with the nearby canal,
lake, channel and pond and as it affects the agricultural land as
well as the drinking water in the said locality, based on the report
of the Agricultural Department dated 27.11.2014, a show cause notice
was issued to the petitioner on 30.3.2015 directing the petitioner to
appear on 06.4.2015 to submit explanation. Since the petitioner has
not given any reply on the said show cause notice, the respondent has
passed the impugned proceedings under Section 133 (A) of Cr.P.C
directing the petitioner to remove the Prawn Farm, as against which,
the petitioner has filed Crl.RC.No.385 of 2015. By order dated,
03.6.2015, this Court directed the petitioner to appear before the
respondent, by treating the impugned proceedings dated 16.4.2015 as a
show cause notice, within a period of one week and adduce evidence

to show that there is no violation in running a Prawn Farm. This Court also directed the respondent to pass orders in accordance with law, after hearing all the parties concerned. But, the respondent, without hearing the petitioner in person, has passed the present impugned order. Therefore, the petitioner has filed the above Criminal Revision.

3. The learned counsel for the petitioner submitted that in spite of the specific direction given by this Court, directing the respondent to afford an opportunity of personal hearing to the petitioner, the respondent has passed the impugned order without giving an opportunity to the petitioner. The learned counsel for the petitioner submitted that subsequent to the order dated 03.6.2015, the petitioner has submitted his explanation. Thereafter, no notice was served on the petitioner for personal hearing.

4. Admittedly, this Court, while remitting the matter back to the respondent, has given the following direction:-

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.

The fact remains that the petitioner has submitted his explanation pursuant to the order of this Court. This Court has specifically directed the respondent to pass orders after giving an opportunity to the petitioner. Opportunity means, the petitioner has to be heard in person. Mere giving opportunity to submit explanation is not sufficient. Therefore, the respondent ought to have given an opportunity of personal hearing to the petitioner put forth his contentions before the concerned officer. Therefore, I am of the view that the direction given by this Court has not been properly followed by the respondent.

5. In view of the same, the impugned order is set aside the matter is again remitted to the respondent for fresh consideration. The petitioner is directed to appear before the respondent on 11.8.2015 at 4.00 p.m. and on such appearance the respondent shall hear the petitioner in person and thereafter, pass fresh orders on merits and in accordance with law. It is made clear that no fresh notice will be served on the petitioner by the respondent to appear on the said date. The learned counsel for the petitioner is directed to inform the petitioner about the order of this Court and ask him to appear before the respondent on 11.8.2015 at 4.00 pm for personal hearing. It is also made clear that if the petitioner fails to appear before the respondent on the above said date, the respondent

is at liberty to pass orders on merits.

With the above observation and direction, the Criminal Revision case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ga

To

1. The Revenue Divisional Officer - cum -
Executive Magistrate,
Ponneri.
2. N.Kalaimamani @ Murugan,
S/o. Nagarthinam,
No.14, Periakarumbar,
Derampattu Post,
Ponneri Taluk,
Thiruvallur District - 601 201.

(appear before respondent on
11.08.2015 at 4.00 p.m. for
personnal hearing)

2 CCs to Mr.T.S. Rajamohan, Advocate SR.No. 40079

Cr1.RC No. 775 of 2015

ALA (CO)
PSI (05.08.2015)

WEB COPY