

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.9.2015

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 959 of 2015

P.Govindan

.. 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 12.8.2015 passed by the respondent in
Na.Ka.No.1949/2014/A1.

For Petitioner : Mr. T.S.Rajmohan

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

ORDER

The petitioner has filed this Criminal Revision Case as against
the order dated 12.8.2015 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 28.11.2014 directing the petitioner
to appear on 06.4.2015 to submit explanation. The petitioner has also
submitted a reply dated 28.11.2014 denying the allegations. However,
according to the petitioner, without considering the said reply, the
respondent has passed the impugned proceedings dated 16.4.2015 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.441
of 2015. By order dated, 09.6.2015, 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. Pursuant to the said order, the respondent, has passed the
present impugned order. Therefore, the petitioner has filed the
above Criminal Revision.

3. The learned counsel for the petitioner submitted that pursuant to the order of this Court dated 09.6.2015, the petitioner has submitted a reply dated 10.8.2015 but in spite of the same, the respondent has passed the impugned order without hearing the petitioner.

4. The learned Government Advocate (Criminal side) submitted that this Court has passed the order on 09.6.2015 and the copy was made ready on 03.7.2015 and the same was received by the petitioner on 06.7.2015. As per the order of this Court, the petitioner ought to have submitted his reply on or before 13.7.2015. But the petitioner has not submitted his reply only on 10.8.2015. It is submitted by the learned Government Advocate that as per the direction of this Court the petitioner has not appeared before the respondent and submit his reply on or before 13.7.2015. However, the impugned order has been passed only on 12.8.2015, that too, after a period of one month from the date of receipt of order by the petitioner. Therefore, impugned order is correct and it does not require any interference.

5. Admittedly, this Court, while remitting the matter back to the respondent, by order dated 09.6.2015 has given the following direction:-

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 is closed."

6. As per the above order, the petitioner ought to have given his reply within one week from the date of receipt of the said order. No doubt, the order was made ready on 03.7.2015 and the same was received by the petitioner on 06.7.2015. Therefore, the petitioner ought to have given its reply on or before 13.7.2015. The impugned order has been passed only on 12.8.2015, i.e. after one month from the date of receipt of the order by the petitioner. According to the petitioner, he submitted his reply on 10.8.2015. But the petitioner has not chosen to appear in person before the RDO as per the order of this Court till 12.8.2015. Even if it is taken that the petitioner has sent his reply on 10.8.2015, definitely, it should have reached the respondent on 12.8.2015. Hence, I am of the view that the direction given by this Court has been properly followed by the respondent.

7. In view of such circumstances, I do not find any reason to interfere with the reasoned order of the respondent. The Criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

It is made clear that the petitioner is at liberty to approach the concerned authority in the manner known to law, if he is so advised.

Sd/-
Asst.Registrar (J)

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Sub Asst. Registrar

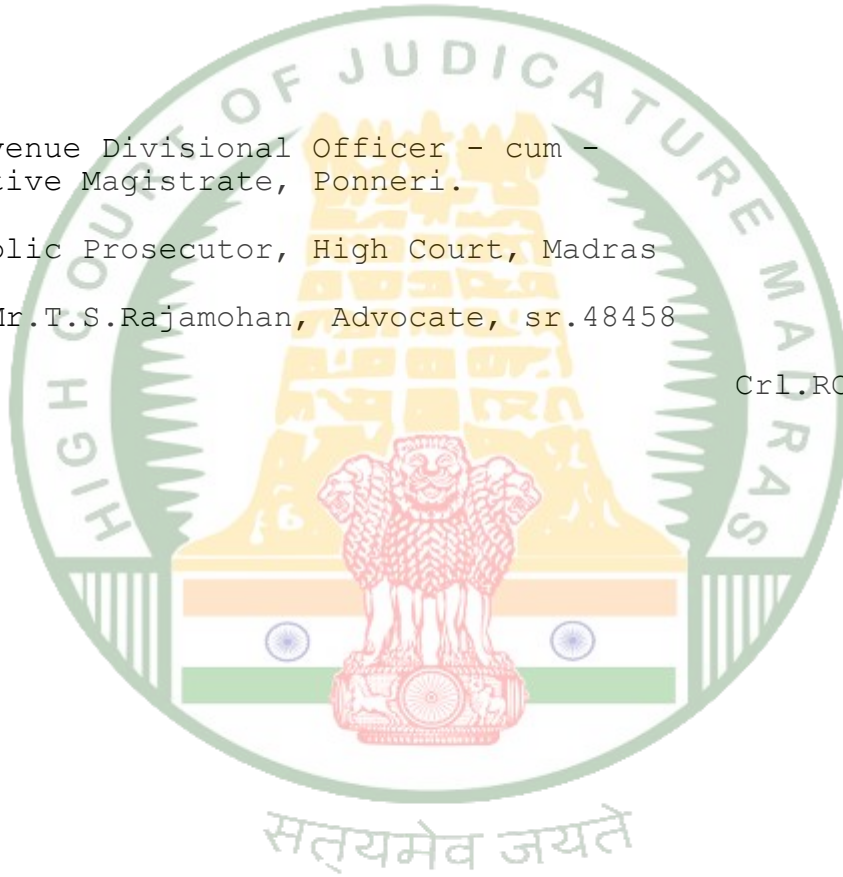
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To

1. The Revenue Divisional Officer - cum -
Executive Magistrate, Ponneri.
2. The Public Prosecutor, High Court, Madras
- +1 cc to Mr.T.S.Rajamohan, Advocate, sr.48458

CrI.RC No. 959 of 2015

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