

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.01.2016
Date of verdict: 20.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.38086 of 2015

M.Uma Manickam

... Petitioner

Vs.

The State represented by its

1. The Secretary to Government of Tamil Nadu,
Department of Home,
Fort St. George, Chennai-9.
2. The Additional Director General of Prison,
C.M.D.A. Towers, Egmore,
Chennai-8.
3. The Superintendent,
Central Prison,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of mandamus directing the respondents to grant leave for 60 days to the petitioner's husband, the detenu, Manickam @ Poonga Nagar K.Manickam, aged about 55 years, convict No.6897, detained at Central Prison, Salem.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader

ORDER

The petitioner has come up with the present writ petition for a mandamus directing the respondents to grant leave for 60 days to her husband, the detenu Manickam @ Poonga Nagar K.Manickam, aged about 55 years, Convict No.6897, detained at Central Prison, Salem.

2. It is the case of the petitioner that her husband was a convict prisoner bearing Convict No.10822 undergoing life imprisonment. He was convicted and sentenced to undergo life imprisonment by the Fast Track Court No.I, Chennai in S.C.No.87 of 2003 by judgment dated 19.4.2004. Her husband is suffering from heart disease. The Doctors advised him to undergo operation to save his life. The Surgeons have also advised him that after operation, her husband must take treatment because the physicians have to monitor the infection and other complications. The senior surgeon Dr.Purushotham of Government General Hospital, Chennai advised him to take surgery to cure the Coronary Artery Disease (CAD) on 4.8.2015 in his medical report. Hence, the petitioner sent a representation to the respondents on 16.11.2015 and the detenu also requested the same before the third respondent. But, no one has come forward to take appropriate action to grant leave to the detenu. Hence, the petitioner has come forward with the present petition for the relief set out earlier.

3. The third respondent filed counter affidavit stating that the petitioner's husband is stable and he is allowed to take outside drugs as per the Prison Medical Officer's recommendation. His health condition is being monitored. The petitioner's husband was punished several time for violation of prison rules during the period of conviction. In these circumstances, the petitioner submitted a petition dated 17.11.2015 to the Secretary to Government of Tamil Nadu with a request to grant 60 days leave to her husband to undergo surgery and recuperation. As per Tamil Nadu Suspension of Sentence Rules 1982 No.22(3), Ordinary leave can be granted after the expiry of two years from the previous leave. Hence, the petitioner's husband is not eligible for ordinary leave because he has already availed ordinary leave for seven days from 3.1.2015 to 11.1.2015 as per the Coimbatore Range Deputy Inspector General of Prisons Order No.L Dis 307/CA/2014 dated 27.12.2014. Thus, he sought for dismissal of the writ petition.

4. Learned counsel appearing for the petitioner submitted that it is incorrect to state that the petitioner's husband is stable. In fact, the senior surgeon Dr.Purushotham of Government General Hospital, Chennai advised him to take surgery to cure the Coronary Artery Disease (CAD) on 4.8.2015 in his medical report. Thus, he seeks to grant leave for 60 days to the petitioner's husband to undergo the surgery.

5. Learned Additional Government Pleader appearing for the respondents submitted that the petitioner's husband was punished several time for violation of prison rules during the period of conviction. Further, he has submitted that he has already availed ordinary leave for seven days. Thus, he sought for the dismissal of the writ petition.

6. Considering the facts and circumstances of the case, without going into the merits of the claim made by the petitioner, the third respondent is directed to consider the representation of the petitioner dated 16.11.2015 and pass appropriate orders with regard to grant leave to the petitioner's husband, purely on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sbi

To

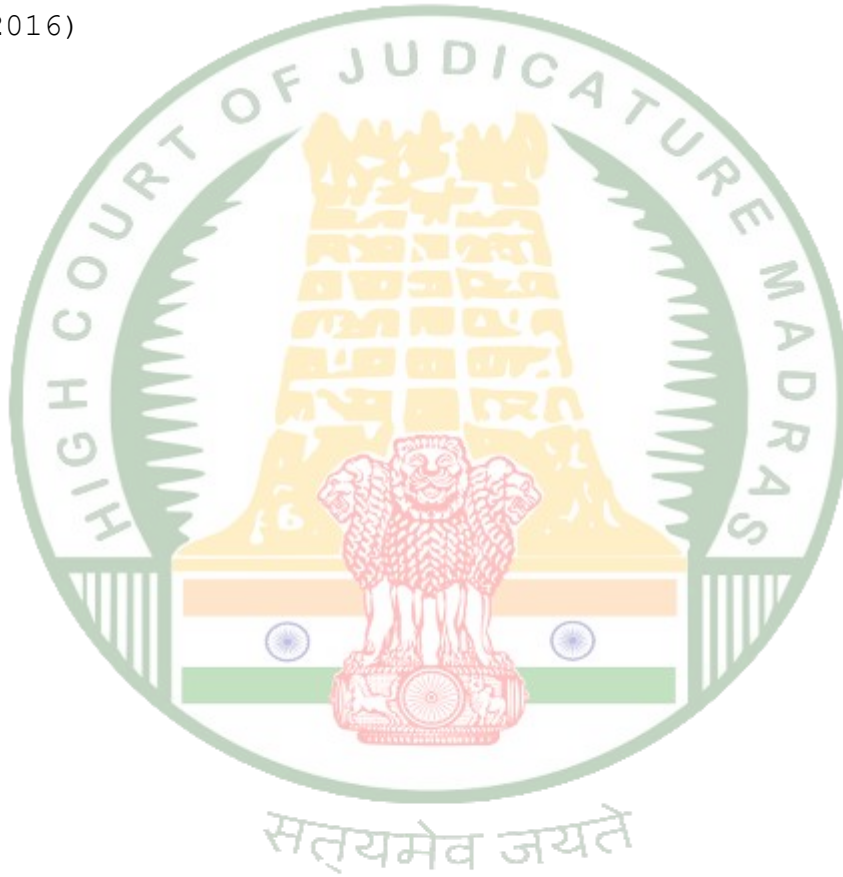
1. The Secretary to Government of Tamil Nadu,
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3. The Superintendent,
Central Prison,
Salem.

+1cc to Mr.S.Manoharan, Advocate, S.R.No.3240
+1cc to the Government Pleader, S.R.No.3265

W.P.No.38086 of 2015

SAI (CO)
CA(03/02/2016)



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