

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.11106 of 2004

&

W.M.P.No.13028 of 2004

D.Vasuki

.. Petitioner

Vs.

1. The Commissioner,
Chennai Corporation,
Chennai-600 003.
 2. The Deputy Commissioner (Health)
Corporation of Chennai,
Chennai-600 003.
 3. The Asst. Sanitary Inspector,
Division-II,
Kondithoppu, Chennai.
 4. The Assistant Sanitary Inspector,
Division-IV,
Ayyanavaram, Chennai-600 023.
 5. The Secretary,
Blue Cross of India,
Adayar, Chennai-20.
- (R-5 impleaded as per order dated 08.03.2011
in W.M.P.No.313 of 2007 in W.P.No.11106 of 2004)

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records made in Su.Thu.Na.Ka.No.Ka.Pi.Aa.1/123/2004, dated 24.03.2004 passed by the second respondent herein and quash the same as illegal and consequently direct the respondents to release the petitioner's cows (Totally 4).

For Petitioner : Mr.K.Gandhikumar
For Respondents : Mr.R.Arunmozhi, Standing Counsel for
RR-1 to 4
No Appearance for R-5

ORDER

The petitioner has come forward with above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus, to call for the records made in Su.Thu.Na.Ka.No.Ka.Pi.Aa.1 / 123/2004, dated 24.03.2004 passed by the second respondent herein and quash the same as illegal and consequently direct the respondents to release the petitioner's cows (Totally 4).

2. The case of the petitioner is that she is a permanent resident of Ayyanavaram and that cows that were tied in the backyard (fenced) of her house, were taken by the respondents on the midnight of 17.12.2003 and that she immediately sent a representation to the respondents in that regard on 17.12.2003 itself to release the cows, but of no avail. According to the petitioner, she has not contravened any of the Rules/Regulations and that the respondents have no business to take the cows on the pretext that the cows were on the streets. Subsequently, another cow purchased, was also removed on 18.02.2004 without any notice and that cow would worth about Rs.20,000/-. The petitioner submitted that the action of the respondents is arbitrary and without following any procedures before taking the cows from the possession of the petitioner and handing over the same to the Blue Cross of India, which fact came to light after enquiry, is illegal, and that the impugned order passed by the second respondent, dated 24.03.2004, on the ground that only the cows that were on the road, have been taken into custody on the ground as they caused hindrance to the public, and subsequently they were handed over to the Blue Cross of India, is totally incorrect.

3. The respondents have filed counter affidavit inter-alia contending that earlier, the petitioner had filed W.P.No.6004 of 2004 praying for issuance of a Writ of Mandamus to direct the respondent(s) to consider the representation of the petitioner, dated 17.12.2003 and 20.02.2004 and release the cows totalling three and in the said W.P., this Court directed the respondents to consider and pass orders on the said representations, within a period of ten days from the date of receipt of a copy of the order or production of a copy of the order. Pursuant to the said order of this Court, detailed reply had been sent to the petitioner stating that the Corporation of Chennai has caught the cows on 17.12.2003 at around 1.30 a.m. on Konnur High Road, Kolathur and SIDCO Nagar area on 18.02.2004 and the same were put in Corporation Cattle shed for three days and thereafter, the cows were handed over to the Blue Cross of India. The said representations have been disposed of, which is the subject matter of the present Writ Petition. The total number of cows that were caught on the ground of stray cattle on 17.12.2003 and 18.02.2004, are mentioned below:

On 17.12.2003:

Sl. No.	Zone	Division	No. of cattles
1	Zone II	29	4 stray cattles
2	Zone IV	58	1 stray cattle
3	Zone VII	106	1 stray cattle
4	Zone X	149 150 153	3 buffalo 1 cow

On 18.02.2004:

Sl. No.	Zone	Division	No. of cattles
1	Zone IV	58 59	3 stray cattles

4. It is the further stand of the respondents in the counter that till 20.12.2003, no one claimed the cattle and the Corporation of Chennai handed over 10 Nos. of stray cattle on 20.12.2003 to the Blue Cross of India, Guindy and 3 Nos. of cows were caught on 18.02.2004, which were also handed over to Blue Cross of India, as nobody claimed them till 24.02.2004. The petitioner will have to claim the cattle from the Blue Cross of India. The officials of Chennai Corporation have only caught the cows/buffalos/bulls, which caused hindrance to the general public and traffic and the Chennai Corporation will release the caught cows/buffalos/bulls after collecting fine from the owner of the cows/buffalos/bulls as follows:

- (i) For cow and buffalo below three years of age : Rs.750/-
- (ii) For cow and buffalo above three years of age : Rs.1,250/-
- (iii) For bulls below three years of age : Rs.1,000/-
- (iv) For bulls above three years of age : Rs.1,750/-

5. The unclaimed cows/buffalos/bulls (after three days) are handed over to the Blue Cross of India for further maintenance. The Greater Chennai Corporation has not caught the cows of the petitioner from her premises as alleged by her. Learned counsel for the respondents submitted that the petitioner has never approached the respondents for return of cows and that there is no need for the Corporation to take the cows from the petitioner's residence. There is no evidence as to whether the petitioner has taken permission to maintain the cows in the

city. As the Corporation is no way connected with the cows which have been handed over to the Blue Cross of India only for further maintenance, the petitioner is not entitled to any relief.

6. There is no representation for the fifth respondent/Blue Cross of India for several hearings. This Court expresses its displeasure on the part of the fourth respondent/Blue Cross of India in not appearing through its representative or through its lawyers before this Court.

7. Heard both sides and perused the materials available on record.

8. The incident has taken place in 2003/2004 and that the petitioner has not produced any evidence to show that the cows have been taken from her residence. Even if it is so, as the respondents 1 to 4 are only disputing the facts, this Court cannot delve into the disputed questions of facts. Hence, I find that there is no reason to grant the relief sought for in this Writ Petition, which is accordingly dismissed. If the petitioner has got any grievance, it is for her to work out her remedy before appropriate forum in accordance with law and claim compensation, if eligible in accordance with law, for the alleged taking of cows from her residence by the respondents 1 to 4, as more than 15 years have gone by now.

No costs. W.P.M.P. is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Commissioner,
Chennai Corporation,
Chennai-600 003.
2. The Deputy Commissioner (Health)
Corporation of Chennai,
Chennai-600 003.
3. The Asst. Sanitary Inspector,
Division-II,
Kondithoppu,
Chennai.

4. The Assistant Sanitary Inspector,
Division-IV,
Ayyanavaram,
Chennai-600 023.

5. The Secretary,
Blue Cross of India,
Adayar, Chennai-20.

+1cc to M/s.R.Arunmozhi, Advocate SR.No.74502/17

W.P.No.11106 of 2004

BR(CO)
Sm:24.11.2017



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