



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

Writ Appeal (MD)No.777 of 2017

Chinnammal

... Appellant/Petitioner

Vs.

1.The District Revenue Officer,
Dindigul District,
Dindigul.

2.The Tahsildar,
Dindigul Taluk Office,
Dindigul.

3.Vincent Joseph

... Respondents/Respondents

Writ Appeal filed under clause 15 of the Letters Patent against the order dated 21.11.2011 in W.P(MD)No.8310 of 2005.

Prayer in WP(MD). 8310/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, call for the records from the 1st respondent herein issued in his proceedings Pa.Mu.26241/2002/C3 dated 10/03/2005 and quash the same.

For Appellants : Mrs.S.Vijayashanthi

For Respondents 1&2 : Mrs.J.Padmavathidevi,
Special Government Pleader.

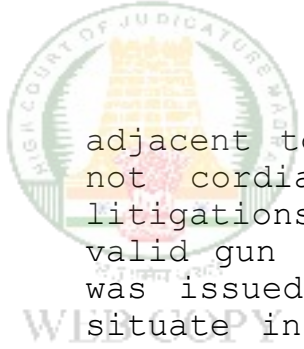
For 3rd Respondent : Mr.Vincent Joseph
Party in Person

JUDGMENT

PUSHPA SATHYANARAYANA, J

The appeal is directed against the order passed by the learned single Judge dated 21.11.2011 passed in W.P(MD)No.8310 of 2005.

2.The appellant and the third respondent owned lands



adjacent to each other. The relationship between both owners are not cordial and there seemed to be both civil and criminal litigations pending between them. The third respondent holds a valid gun licence under the Arms Act from 10.03.1986. The licence was issued to the third respondent on the ground that lands are situate in forest area where there are movement of animals which caused menace to the agricultural fields as well as danger to life.

3.It is the case of the appellant that having possession of the deadly weapon, the third respondent used to threaten the petitioner and her workers. It is also alleged that he used to open fire in the air just to inflict fear in the mind of the appellant. Hence, a representation was given by the appellant to the first respondent complaining about the behaviour of the third respondent. There was an enquiry conducted on 29.10.1996, pursuant to which his licence was cancelled. However, on appeal before the Principal Commissioner of Revenue Administration, it was remitted back to the first respondent. Thereafter, an enquiry was conducted and once again, the licence of the third respondent was renewed. The appeal preferred by the appellant was also dismissed. Hence, W.P(MD) No.11453 of 2002 was filed. The said writ petition was disposed of directing the first respondent to consider the objections of the appellant. Accordingly, after receiving notice, the appellant appeared before the authorities on 24.01.2005 and she was examined. Later, it was understood that a licence was issued by the authorities to the third respondent for a period from 01.01.1999 to 31.12.2005. Though as against the said order, there is an alternative of remedy of appeal to the appellate authority, the appellant has moved this Court by way of writ petition in W.P(MD) No.8310 of 2005.

4.The third respondent has filed counter before the writ court and after considering the submissions made by both the parties, the writ petition was dismissed. Aggrieved by the same, the present appeal came to be filed.

5.It is the contention of the learned counsel for the appellant that there was no renewal of licence and that the third respondent did not have a valid licence. However, the third respondent produced documents as if the renewal of licence is valid. The last of such entry shows that the renewal was up to 31.12.2005 and he has also further made an application on 05.12.2017 for the renewal of the same for the next three years.

6.Learned counsel for the appellant vehemently contended that though this Court while disposing of W.P.No.11453 of 2002, directed the District Revenue Officer, Dindigul District to consider the objections of the appellant, she was not heard nor was permitted to produce documentary evidence.



7.A perusal of the records produced by the first respondent shows that a proper notice was issued to the appellant and she was also summoned to appear before the first respondent on 24.02.2005, she had also deposed in person before the authorities stating her objections. Therefore, the licence of the third respondent was renewed till 31.12.2017 and for the next period, it is pending for renewal due to the pendency of the writ appeal.

8.The licence can be issued by the authorities to any person who feels insecure as basically crimes against person or property are in increase. Secondly, if the person needs to own unprohibited fire arm for the purpose of guarding his agricultural lands from the wild animals, licence can be granted. The police report is relevant for the purpose of issuing gun licence. However, it is not necessary a licence can be granted only if there is a favourable recommendation from the police. Even when there is a threat to a person of the property or other criteria that need to be considered such as the genuineness of the need of the person including his status in the society, the licence can be granted. In fact, there are judgments where licence can be granted, though there are no threats received by the applicant. The authorities have to see whether the person who applied for the gun licence is mentally or physically sound and has been involved in any dispute and it should be a guarantee given by the police that once the licence granted to a person, he shall not misuse it. It is only after subjective satisfaction of the authorities and the recommendation of the police, a licence is granted. Hence, we are of the view that the third respondent may be granted valid licence as no factor makes him unsuitable or unfit to possess the gun licence. The objection of the appellant is only due to enmity and she is unable to point out any ground which would disqualify the third respondent from holding a licence. Even otherwise, as stated earlier, it is the authorities, who have to take into account the relevant circumstances before the grant of licence.

9.For the foregoing reasons, the writ appeal is dismissed. The dismissal of the writ appeal will not preclude the authorities while granting licence to take into consideration of the relevant circumstances before renewing the same. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS-I)



To

1. The District Revenue Officer,
Dindigul District,
Dindigul.

2. The Tahsildar,
Dindigul Taluk Office,
Dindigul.

+1 CC To MR.M.S.VINCENT JOSEPH, Party in Person SR. NO.85999
+1 CC To MR.K.HARIHARAN, Advocate SR. NO.85257
+1 CC TO The Special Government Pleader SR.NO. 85885

Judgment made in
Writ Appeal (MD) No.777 of 2017
19.09.2018

sms

TR/RP/SAR-I (11.10.2018) 4P 6C