

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.970 of 2019

and

W.M.P. No.1082 of 2019

V.M.Nachimuthu

.... Petitioner

Vs.

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Sub Collector,
Office of the Sub-Collector,
Pollachi.
3. The Regional Director (Incharge),
Animal Husbandry Department,
Coimbatore.
4. The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.
5. The Block Development Officer,
Thippampatty Panchayat,
Thippampatty,
Pollachi Taluk,
Coimbatore District.

6. V. Arusamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, directing the respondents 1 to 5 to take appropriate action on the representation made by the petitioner dated 24.12.2018 and consequently prohibit the 6th respondent from conducting private cattle shandy in the 5th respondent panchayat or any other place in Pollachi Taluk.

For Petitioner : Mr.Ayyathurai
Senior Counsel
for Mr.R. Arumugam

For Respondents : Mr.B. Anand
Government Advocate for RR1 to 3 & 5
Mr.A.S. Thambusamy for R4
Mr.V. Ravi for R6

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. According to the petitioner, the petitioner was the successful bidder in the auction conducted by the 4th respondent-Municipality for collection of Entrance Toll. He has paid the lease security deposit amount, E.M.D. and Additional E.M.D. to the tune of Rs.74,10,748/- to the 4th respondent-. The 4th respondent has permitted him to collect the Toll in Gandhi Weekly Market cattle Shandy, with effect from 1.5.2018. While that being so, as directed by the first respondent, the cattle Shandy was temporarily suspended for the period of two weeks from 29.11.2018, due to spread of Komari disease to the cattles in several parts of the State. Subsequently, the period has been extended till 14.12.2018 for further period of two weeks. In the due course, the 6th respondent commenced private cattle shandy without obtaining permission to run the aforesaid cattle shandy. Therefore, the petitioner has submitted the representation dated 24.12.2018 to the authorities concerned to take action against the 6th respondent and to prohibit him from running the said shandy and the same was not considered. Hence, he come forward with this writ petition before this Court.

3. Mr.Ayyadurai, learned Senior counsel appearing for the petitioner would submit that the sixth respondent is running a private shandy in his land, which is contrary to the Tamil Nadu Panchayat's Act read with Rule 7 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules, 2000. Thus, it is a clear violation of the Rules contemplated under the said Act. Hence, the petitioner is entitled for the prayer sought for

4. The learned counsel appearing for the 5th respondent submitted by relying upon the paragraphs 3 & 4 of the counter, stated that the 6th respondent has not obtained the requisite licence or permission from the authorities concerned, which is mandatory to conduct the private cattle shandy, despite oral instructions issued by them, not to run the private cattle shandy.

5. Per contra, learned counsel appearing for the 6th respondent would submit that the shandy in dispute was commenced after 38 years of hard work and with the support of the villagers and no prejudice would cause to the petitioner, if the said Shandy is conducted in the above said place.

6. By considering the rival submissions of the parties, it is evident from the fact that the 6th respondent has conducted the cattle shandy in a private land without obtaining any permission or requisite licence from the authorities concerned. Therefore, the provisions as contemplated under the Tamil Nadu Panchayat's Act read with Rule 7 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules, 2000 has not been complied with by the 6th respondent. Thus, this Court is of the opinion that the 6th respondent has no right to conduct the cattle shandy in the aforesaid place.

7. In the light of the submissions so made by the learned counsel on either side and considering the facts and circumstances of the case, 1st respondent / District Collector and 5th respondent / Block Development Officer are directed to initiate action against the 6th respondent from conducting the cattle shandy without any permission or requisite licence. The said action to be taken within a period of one week from the date of receipt of a copy of the order.

7. With the above observations, the writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Sub Collector,
Office of the Sub-Collector,
Pollachi.

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3. The Regional Director (Incharge),
Animal Husbandry Department,
Coimbatore.

4. The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

5. The Block Development Officer,
Thippampatty Panchayat,
Thippampatty,
Pollachi Taluk,
Coimbatore District.

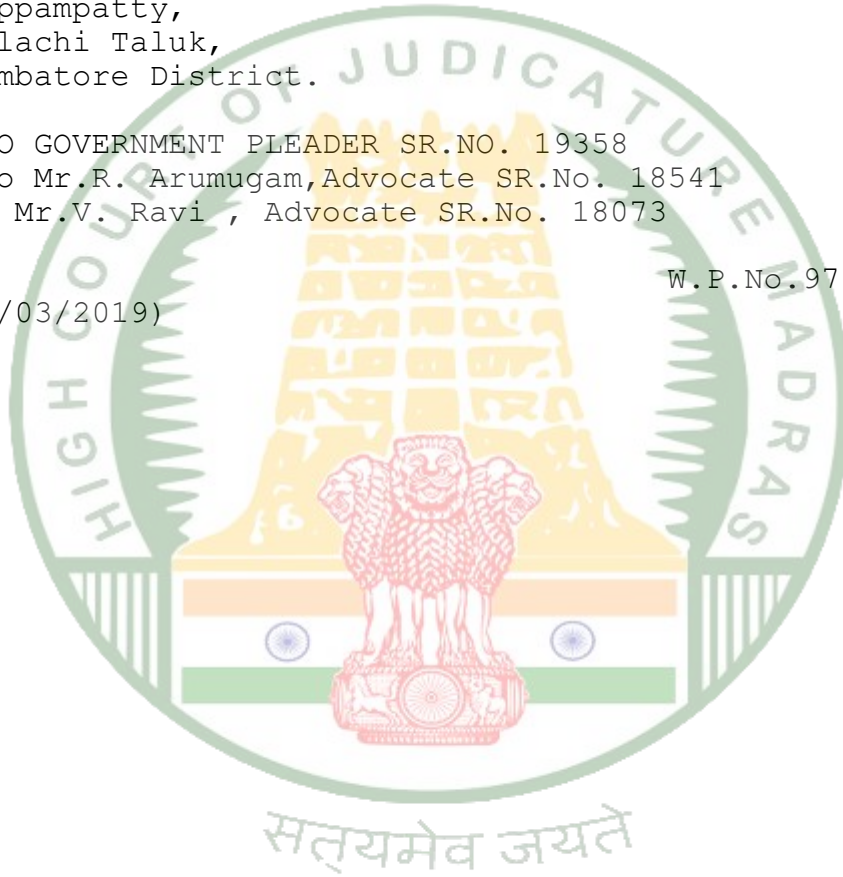
+1 CC TO GOVERNMENT PLEADER SR.NO. 19358

+3ccs to Mr.R. Arumugam,Advocate SR.No. 18541

+1cc to Mr.V. Ravi , Advocate SR.No. 18073

W.P.No.970 of 2019

A.SK(01/03/2019)



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