

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 27.09.2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.37093 of 2007
and
M.P.No.2 of 2007

R.M.P.Gunasekar

... Petitioner

-Versus-

1.The Special Commissioner and Commissioner,
Revenue Administration,
Disaster Management and Mitigation Department,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The Additional District Magistrate &
District Revenue Officer,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the 1st respondent dated 21.04.2007 in Rc.No.RA5(2)/20347/2006 in petitioner's Appeal in AA No.043/2006 and to quash the same and for a consequential direction to the respondents to issue a license to the petitioner to possess a Double Barrel Gun so as to protect the agricultural crops, poultry and cattle farms.

For Petitioner : Mr.Palani Selvaraj

For Respondent(s) : Mr.I.Sathish, AGP for
RR1 and 2

ORDER

This writ petition has been filed challenging the order dated 21.04.2007 passed by the 1st respondent dismissing the appeal preferred by the petitioner as against the order of the 2nd respondent refusing to grant an arms license to the petitioner to possess a Double Barrel Gun (in short "DBBL Gun") and confirming the order passed by the 2nd respondent.

2. The case of the petitioner in brief is as follows:- The petitioner is an agriculturists having 70 Acres of land in

Ranagasamudram, Panikkampatti Village, Palladam. The above said lands are fertile lands which are situated beneath the small hills around. In addition to the agricultural operations, the petitioner is also having cattle and poultry farms in his fields. Earlier, in the year 1991, he was granted a license to possess a DBBL Gun in order to safeguard the agricultural crops and livestock as there was threat of disturbance by wild animals. Subsequently, he wanted to have a pistol for his self protection and hence, he approached the authority concerned for the grant of license to possess a pistol instead of DBBL Gun. Pursuant to same, the District Collector had granted a license to the petitioner to possess a pistol instead of DBBL Gun by his proceedings in No.Mu.Mu./45185/2003/Ki3 dated 10.10.2004. Ever since the date of license, the petitioner has been using the pistol. He is a law abiding citizen and he never misused the arms at any point of time in all these years.

3. While that being so, now, the crops are being ruined by the wild animals like Jackal and Wild Cat. Since the pistol is small in size, he finds it very difficult in the fields to deal with the wild animals with the pistol. Usually, the DBBL Gun would be effective to deal with the wild animals and therefore, in order to protect the crops from being destroyed by the wild animals, he made an application for the grant of license to possess DBBL Gun. Based on his application, reports were called for from the Superintendent of Police, Coimbatore, Revenue Divisional Officer, Tiruppur and District Forest officer, Coimbatore. Though the Superintendent of Police, Coimbatore has sent a negative report, the Revenue Divisional Officer, Tiruppur, on being satisfied with enquiry about the position and the conduct of the petitioner sent his report recommending for issuance of a license for DBBL Gun in addition to pistol license. The District Forest Officer, Coimbatore has also recommended for issuance of license for DBBL Gun. Despite such recommendations, the 2nd respondent by order dated 14.02.2006 rejected the application of the petitioner for license to possess DBBL Gun on the ground that the Superintendent of Police, Coimbatore had not recommended for license to possession DBBL Gun and held that crackers would be sufficient to chase the wild animals away from the agricultural field and also directed the petitioner to deposit the DBBL. Accordingly, the DBBL Gun was deposited. As against the order of the 2nd respondent, the petitioner preferred an appeal in AA No.043/2006 under Section 18(1) of The Indian Arms Act, 1959 before the 2nd respondent which was dismissed by the 1st respondent by order dated 21.04.2007 without considering the issue in a proper perspective which is arbitrary, unreasonable, illegal and in violation of Article 19(1)(g) and 21 of The Constitution of India. Hence, this writ petition.

4. The 2nd respondent filed counter affidavit stating that earlier the petitioner was granted a license to possess a DBBL Gun. Thereafter, in the year 2003, the petitioner had applied for change of license to use a pistol instead of DBBL Gun stating that maintenance and handling of DBBL Gun is not easy than the pistol and chasing away thieves, enemies and wild animals with DBBL Gun is also extremely difficult. That apart, while on run, it may not be possible for him to aim at correct targets using DBBL Gun as he is not a professional gun shooter. Therefore, after obtaining report from the authorities concerned, a license was granted to the petitioner to possess a pistol instead of DBBL Gun. In the above circumstances, the contention of the petitioner that the crops could be saved from the wild animals only by DBBL Gun cannot be accepted as in his earlier application, the petitioner himself had stated that he found it very difficult to use the DBBL Gun.

5. It is further stated by the 2nd respondent that the petitioner did not produce any materials to show that his crops were damaged by the wild animals. In the above circumstances, there is no necessity to grant license to possess a DBBL Gun in addition to the pistol which is already in possession of the petitioner. Considering all those circumstances only, the 2nd respondent had rejected the request of the petitioner for license to possess a DBBL Gun in addition to pistol which was also confirmed by the 1st respondent. Thus, the writ petition suffers merit and the same is liable only to be dismissed.

6. The learned counsel for the petitioner would submit that the petitioner was originally granted a license to possess a DBBL Gun, subsequently, he had surrendered the DBBL Gun license and instead, he had obtained a license to possess a pistol. According to the learned counsel, now the change in circumstances, necessitated the petitioner again to seek for DBBL Gun as he found it very difficult to chase the animals away from the agricultural field with pistol as it is small in size. Merely because the petitioner has been granted license to possess a pistol, his request for license to possession DBBL Gun cannot be rejected. The DBBL Gun is required for bonafide crop protection.

7. The learned counsel would further contend that under Section 3(2) of The Arms Act, a person can have maximum of three fire arms and the petitioner is now in possession of a license to have a pistol alone and, therefore, in law, there is no bar to have another license to possess a DBBL Gun. Apart from that, under Section 13 (3)(a)(i) of the Arms Act, the petitioner is entitled to possess smooth bore gun for bona fide crop protection. Without considering the bonafide requirement of the petitioner to possess a DBBL Gun, the respondents have rejected

the request of the petitioner in an arbitrary manner on the ground that he had only surrendered the DBBL Gun license and instead, obtained a license to possess a pistol.

8. Per contra, the learned Additional Government Pleader would contend that originally, the petitioner was granted license to possess a DBBL Gun and only upon his request, the license was changed to pistol on the ground the petitioner was finding it very difficult to maintain the DBBL Gun than the pistol and to chase the animals away from the agricultural field with the DBBL and aim at the target while on the run. Therefore, now, it is not open to the petitioner to seek for license to possess a DBBL Gun in addition to the pistol. That apart, even though the petitioner has stated that DBBL Gun is required for bonafide crop protection, absolutely there is no material produced by him to show that agricultural crops were being ruined by the wild animals in all these years and in the absence of any such proof, the impugned order cannot be found fault with.

9. I have considered the rival submissions carefully.

10. The petitioner was originally granted a license to possess a DBBL Gun by the District Magistrate, Coimbatore, in the year 1999 for crop protection. As the petitioner experienced difficulties in maintaining and using the DBBL Gun, he changed his license to one of pistol instead of DBBL gun in 2003. Now, the petitioner again seek for license to possess a DBBL Gun in addition to pistol license which was obtained for self protection. The grievance of the petitioner is that when he had approached the authorities for DBBL Gun license for bonafide crop protection, his request was rejected by the respondents on the ground that he only surrendered the DBBL gun license finding it very difficult to maintain and manage/use the DBBL Gun.

11. No doubt, under Section 3(2) of the Arms Act, possession of maximum three arms are permissible. But, it does not mean that for the very same purpose, the petitioner can have two arms license. The petitioner was earlier granted with a license to possess DBBL Gun for crop protection from the wild animals, but, he only surrendered the same in view of the difficulties experienced by him in maintaining and using DBBL Gun. At his request only, a license to possess a pistol was granted in the year 2003 and ever since the petitioner has been using the pistol. That apart, there is no material produced by the petitioner to show that the crops raised in the agricultural fields were being ruined by the wild animals in all these years. Merely because the petitioner is having lands beneath the hills area, he cannot be granted licenses to possess two arms, one for

his self protection and the other for crop protection. The authorities have considered all the materials available on record and have rightly come to a conclusion that the petitioner is already in possession of pistol license for his self protection and from wild animals and therefore, there is no necessity for grant of another license to possess DBBL gun crop protection. This court do not find any illegality or irregularity in the same and the writ petition is liable only to be dismissed.

In the result, this writ petition is dismissed. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

kmk

To

1. The Special Commissioner and Commissioner, Revenue Administration, Disaster Management and Mitigation Department, Ezhilagam, Chepauk, Chennai 600 005.
2. The Additional District Magistrate & District Revenue Officer, Coimbatore.

+2cc to Mr. Palaniselvaraj, Advocate, SR.No.82670 & 83814
+1cc to Government Pleader, SR.No.83674.

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LN (CO)
CSR(17/12/2019)

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