

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.3.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WRIT APPEAL NO.793 OF 2019

&

CMP.NO.6247 OF 2019

V.Arusamy ...Appellant/6th Respondent

Vs

1.V.M.Nachimuthu

2.The District Collector, Coimbatore
District, Coimbatore.

3.The Sub-Collector, Pollachi.

4.The Regional Director (In-charge),
Animal Husbandry Department,
Coimbatore.

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

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

...Respondents

APPEAL under Clause 15 of the Letters Patent against the order dated 27.2.2019 made in W.P.No.970 of 2019.

W.P.No.970 of 2019:-

Petition filed under Article 226 of Constitution of India, prayed that this Hon'ble Court may be pleased to issued a Writ of Mandamus or any other writ, order or direction of like nature of a Writ, 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 and pass such further or

other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.C.Prabakaran

For Respondents 2 to 6 : Mr.R.Udhayakumar, AGP

JUDGMENT WAS DELIVERED BY T.S.SIVAGNANAM, J

We have heard Mr.C.Prabakaran, learned counsel for the appellant and Mr.R.Udhayakumar, learned Additional Government Pleader accepting notice for respondents 2 to 6.

2. This appeal by the sixth respondent in W.P.No.970 of 2019 is directed against that portion of the order dated 27.2.2019 in so far as the learned Single Judge directed action to be initiated against the appellant herein by the District Collector, Coimbatore District and the Block Development Officer, Thippampatty Panchayat - the sixth respondent herein. The allegation against the appellant is that he had been unauthorizedly collecting toll in a public shandi without any licence.

3. The learned Single Judge, after considering the facts, held that the appellant has been conducting cattle shandi in a private land without obtaining any permission or requisite licence from the concerned Authorities. Thus, the learned Single Judge came to the conclusion that the appellant contravened the provisions of the Tamil Nadu Panchayat Act read with Rule 7 of the Tamil Nadu Panchayats (Opening and Maintenance of Market) Rules. In the background of these facts, a direction was issued to initiate action against the appellant. The appellant is before us challenging that portion of the order passed in the said writ petition.

4. Mr.C.Prabakaran, learned counsel for the appellant states that the appellant had been submitting several representations and only thereafter, he has been conducting cattle shandi.

5. From the facts placed before us, it is clear that no licence had been granted to the appellant to conduct cattle shandi. In such circumstances, there can be no error in the order passed by the learned Single Judge.

6. However, it appears that action has been directed to be initiated against the appellant straight away.

7. In our considered view, principles of natural justice

require that a notice should be issued to the appellant and an enquiry is to be conducted and then action should be initiated otherwise it will be termed as an order in violation of the principles of natural justice.

8. Accordingly, the writ appeal is dismissed with an observation that before ever action is initiated against the appellant by the District Collector and the Block Development Officer, a notice shall be issued giving seven days' time to the appellant to give his explanation, after which, action shall be initiated in terms of the directions issued by the learned Single Judge. No costs. Consequently, the connected CMP is also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.22999

+1cc to the Government Pleader, S.R.No.23166

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CMP.No.6247 of 2019

SJ(CO)
CS/13/03/2019