

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 31458 of 2017

and

W.M.P.s 34561 of 2017 & 22255 of 2019

R.Anusuya

... Petitioner

Vs

1. The Divisional Engineer (Highways),
Operation and Maintenance,
Highways Department,
Uthagamandalam.

2. General Manager,
The Nilgiris District Cooperative
Milk Producers Union Ltd.,
Uthagamandalam.

3. District Forest Officer,
District Forest Office,
Uthagamandalam.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the 3rd respondent, their men, subordinates and agents not to interfere with the peaceful possession and running of the petitioner's business activity of Aavin Milk Sales Depot (KIOSK) situated at Thummanatty Road Junction, Thottabetta Division, Kotagiri Main Road, Uthagamandalam.

For Petitioner : Dr.R.Gouri
For Respondents : Mrs.K.Bhuvaneswari,
Addl. Govt. Pleader for

M/s.A.Ashokkumar for R2

Mr.G.B.Rajesh for R3

O R D E R

The petitioner has filed this Writ Petition seeking a directing forbearing the 3rd respondent from interfering with the

peaceful possession and running of the petitioner's business activity of Aavin Milk Sales Depot (KIOSK) situated at Thummanatty Road Junction, Thottabetta Division, Kotagiri Main Road, Udahagamandalam.

2. The learned counsel appearing for the petitioner would submit that the 1st respondent by its proceedings dated 05.07.2017 has accorded permission to the 2nd respondent for establishing Aavin Milk Sales Depot (KIOSK) at Thottabetta Division. In pursuant to the above said order, the 2nd respondent by its proceedings dated 07.07.2017 has appointed the petitioner herein as an agent of the 2nd respondent for the purpose of establishment of Aavin Milk Sales Depot (KIOSK) at Thottabetta Division and to conduct the sale of 200 litres milk and milk product to the tune of Rs.50,000/- per month thereof. As per the permission granted by the 2nd respondent, the petitioner is running the shop without any complaints. However, the 3rd respondent with their men and agents removed the petitioner's Aavin milk shop from that place on the ground that the petitioner has erected milk booth in the reserved forest area. But, the fact remains, the petitioner is running the milk booth based on the 1st respondent's recommendation dated 05.07.2017 and after the approval of the 2nd respondent. As against the illegal action of the 3rd respondent, the petitioner has made a representation to the respondents 1 and 2 on 27.09.2017, but till date, the respondents 1 and 2 have not taken any action on the representation. Hence, it is sufficient to issue a direction to the respondents 1 and 2 to consider the petitioner's representation dated 27.09.2017 and to pass appropriate orders within a stipulated time.

3. The learned Government Advocate appearing for the 3rd respondent would submit that since the petitioner has erected the milk booth in the reserved forest area, no person is entitled to carry out any business in the reserved forest area. Hence, the 3rd respondent has taken action for removing the shop erected in the reserved forest area. Hence, the contentions of the petitioner is incorrect and prayed to dismiss the Writ Petition.

4. On perusal of records, it is seen that the 1st respondent has sent a recommendation to the 2nd respondent and thereafter, the 2nd respondent has accorded permission to the petitioner for establishing the milk booth in a particular division and accordingly, the petitioner has established a milk booth. However, the 3rd respondent has removed the milk booth on the pretext that the petitioner has erected the aavin milk booth in

the reserved forest area. Hence, without expressing any opinion, I am inclined to issue a direction to the respondents 2 and 3 jointly to make an inspection on the disputed lands and thereafter pass appropriate orders within a period of eight weeks from the date of receipt of the copy of this order.

5. With the above direction, the present Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Divisional Engineer (Highways),
Operation and Maintenance,
Highways Department,
Uthagamandalam.
2. General Manager,
The Nilgiris District Cooperative
Milk Producers Union Ltd.,
Uthagamandalam.
3. District Forest Officer,
District Forest Office,
Uthagamandalam.

+lcc to Dr.R.Gouri, Advocate Sr.68772
+lcc to the Government Pleader Sr.69394, 69319

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& 22255 of 2019

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srg 19/09/2019