

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

CORAM :

THE HON'BLE THIRU.JUSTICE AMRESHWAR PRATAP SAHI ,
THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.33346 of 2019

S.Muralidharan .. Petitioner

-vs-

1.Principal Chief Conservator of
Forests & Chief Wildlife Warden,
Department of Forests, Govt. of
Tamil Nadu, No.1, Jeenis Road,
Panagal Buildings, Saidapet,
Chennai 600 015.

2.District Forest Officer,
Erode Forest Division,
Mullaiagam, Roja Nagar,
Veerappan Chathram, Erode 638 004.

3.Assistant Commissioner/Executive
Officer, Arulmigu Sangameswarar
Temple, Bhavani Kudal, Bhavani 638 301.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 1st and 2nd respondents to immediately take the Elephant Vedanayagi from the premises of Arulmigu Sangameswarar Temple, Bhavani and rehabilitate in Mudumalai Elephant camp.

For Petitioner

: Mr.SP.Chockalingam

For Respondents

: Mr.S.Kamalesh Kannan
Govt. Advocate for RR 1 & 2

: Mr.M.Maharaja,
Spl.G.P. (HR & CE) for R-3

ORDER

(Made by The Hon'ble Chief Justice)

Heard learned counsel for the petitioner. The petition has been filed contending that a female elephant by the name of 'Vedanayagi' is seriously ailing and is not being appropriately attended to by Arulmigu Sangameswarar Temple Management in Bhavani of Erode District.

2.It has been alleged that the elephant is sick, is malnourished and has a swelling under the belly with a plastic wrap around her left leg. It is also alleged that the elephant has lost her appetite. In the above circumstances, it is stated that the elephant is facing an imminent threat of loss of her life and consequently, an appropriate direction should be issued for which reliance is also placed on an interim direction issued by a Division Bench in another matter in the case of Antony Clement Rubin vs. State of Tamil Nadu and Others (WP (MD) No.20001 of 2018, decided on 31.10.2018).

3.It has also been informed that such similar matters, in the past, have been entertained by the High Court and orders have been passed in order to ensure the welfare and care of ailing elephants and any neglect in the present matter would jeopardise the life of the elephant 'Vedanayagi'.

4.The decision in the cases of S.Muralidharan vs. Principal Chief Conservator of Forests and Others, (WP.No.11500/2018) decided on 12.06.2019 and the judgment in the case of S.Muralidharan vs. Principal Chief Conservator of Forests and Others, (WP.No.6030/2019) decided on 19.09.2019 have also been placed before the Court.

5.We have examined the same and also the Tamil Nadu Captive Elephants (Management and Maintenance) Rules, 2011. There is no dispute that the said rules govern the care and maintenance of elephants, wherein certain provisions have been made with obligations cast on the owner or the person having the possession of the elephant to look after the elephant in a routine manner and to ensure that the rules are followed in order to take care of the elephant in captivity. It may be pointed out that the definition clause under Rule 2(d) defines 'any elephant, captured or kept or bred in captivity'. The prescription in the rules also indicate that it shall be the obligation of the owner and the mahout to take care of the elephants whenever found sick, injured, unduly stressed or

otherwise. A medical check-up has to be arranged for the elephant once in a year and for that, the owner has to inform the Chief Wildlife Warden, as also its examination by a Veterinary Doctor in order to eradicate any distress or the ailment being suffered by the elephant.

6. In order to supervise the same, Rule 15 constitutes Welfare Committees at the State Level and District Level. Rule 15 is extracted hereinunder:

15. Welfare Committees.—(1) There shall be a welfare committee at the State level and at the District level.

(2) The State level committee shall consist of—

(a) An officer of Forest Department not below the rank of Chief Conservator of Forests to be nominated by the Principal Chief Conservator of Forests & Chief Wildlife Warden.

(b) An officer of Animal Husbandry Department not below the rank of Joint Director to be nominated by the Commissioner, Animal Husbandry Department.

(c) An officer of Hindu Religious and Charitable Endowment Department not below the rank of Joint Commissioner to be nominated by the Commissioner, Hindu Religious and Charitable Endowment Department.

(d) A person from State Board for Wildlife to be nominated by the Principal Chief Conservator of Forests & Chief Wildlife Warden after obtaining the consent from the person and the State Board for Wildlife.

(3) The district level committee shall consist of—

(a) A District Forests Officer or Wildlife Warden of the district nominated by the Principal Chief Conservator of Forests and Chief Wildlife Warden.

(b) An Assistant Director of Animal Husbandry Department in the district to be nominated by the Commissioner, Animal Husbandry Department.

(c) Joint/Deputy/Assistant Commissioner of Hindu Religious and Charitable Endowment Department in the District to be nominated by the Commissioner, Hindu Religious and Charitable Endowment Department.

(d) A person from State Board for Wildlife or A person from any Non Governmental Organisation to be nominated by the Principal Chief Conservator of Forests and Chief Wildlife Warden.

(3) The district level committee shall inspect the

records maintained under these rules and send a report to the state level committee for its recommendations. The district level committee shall review the welfare and maintenance of the elephants, once in three months.

(4) Each district level committee shall maintain a data sheet as specified in Annexure-II in respect of each captive elephant in the district under their jurisdiction."

7. In the present petition, the petitioner has come up straightaway to this Court complaining of the ailment of the elephant 'Vedanayagi' and the alleged neglect in not taking care of the elephant by the owner/mahout, resulting in a continued sufferance by the elephant without approaching the concerned Welfare Committee or the nominated authorities as prescribed under the rules.

8. We are of the opinion that this may be brought to the notice of the District Level Committee as enjoined under Rule 15 by the petitioner along with a certified copy of this order and the District Level Committee shall thereafter if necessary intimate the Chief Wildlife Warden as well as the Veterinary Officer concerned to inspect the elephant and thereafter, take such necessary steps as may be required for taking care of the alleged sufferance of the elephant 'Vedanayagi' in accordance with the aforesaid 2011 Rules.

The Writ Petition is disposed of, with the above observation. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sra

To

1. The Principal Chief Conservator of
Forests & Chief Wildlife Warden,
Department of Forests, Govt. of
Tamil Nadu, No.1, Jeenis Road,
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Chennai 600 015.

2.The District Forest Officer,
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3.The Assistant Commissioner/Executive
Officer, Arulmigu Sangameswarar
Temple, Bhavani Kudal, Bhavani 638 301.

+1cc to Mr.SP.Chockalingam , Advocate SR.No. 99140
+1 cc to Spl Government Pleader forest Sr.No. 99910

W.P.No.33346 of 2019

A.SK(28/11/2019)



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