



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10706 of 2020

and

W.M.P. (MD)Nos.9427 and 9429 of 2020

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L.Indira

...Petitioner

-Vs-

1.The District Forest Officer,
Court Complex, Trichirappalli.

2.The District Forest Officer,
Madurai Forest Circle,
Madurai-02.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records of the respondents culminating in the orders dated 02.05.2020 bearing Na.Ka.No.4344/2019/KU issued by the first respondent and the order dated 07.07.2020 bearing Na.Ka.No.07/2018/E1 issued by the second respondent quash the same.

For Petitioner : Ms.D.Geetha

For Respondents : Mr.C.Ramar,

Additional Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a permanent resident of Madurai. The petitioner's husband was employed as Mahout in Arulmigu Meenakshi Sundareswarar Temple at Madurai. The petitioner was having a pet elephant. The same was seized from the writ petitioner and is now maintained by the first respondent. While so, the petitioner was served with two demand notices dated 02.05.2020 and 07.07.2020. In the first demand notice dated 02.05.2020, the petitioner was called upon to pay a sum of Rs.9,21,678/- (Rupees Nine Lakhs Twenty One Thousand Six Hundred and Seventy Eight Only). In the second demand notice dated 07.07.2020, the petitioner has been directed to pay a sum of Rs.63,265/- (Rupees Sixty Three Thousand Two Hundred and Sixty Five Only). The validity of these demand notices is put to challenge in this Writ Petition.

3.The first respondent filed counter affidavit. The respondents want this Court to sustain the impugned demand notices by referring to Rule 14 of the Tamil Nadu Captive Elephants (Management and Maintenance) Rules 2011 (hereinafter referred to as



"the said Rules").

4.The learned Additional Government Pleader appearing for the respondents reiterated the contentions set out in the said counter affidavit.

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5.I carefully considered the rival contentions and went through the materials on record.

6.A mere look at the materials enclosed in the typed set of papers would indicate that the petitioner did not surrender the petition mentioned elephant. It was taken over by the authorities, following the Court order dated 12.06.2019 made in W.P.No.11500 of 2018.

7.Rule 14 of the said Rules reads as follows:-

"14.The aged elephants taken by the Department.- The aged elephants which could not be maintained by the temple / Private authority shall be taken by the Forest Department after due checkup by Forests Veterinary Officer / Assistant Surgeon. The cost of maintenance should be born by the Hindu Religious and Charitable Endowments Department or Temple or Private authority."

8.Only if the elephant in question could not be maintained by the person concerned and it is handed over by the Forest Department, then alone the cost of maintenance should be borne by the original custodian. In this case, the petitioner did not surrender possession of the animal, it was taken over by the Department. Therefore, Rule 14 of the said Rules will not have any application to the case on hand. The petitioner is not only deprived of the animal but has also been called upon to bear the cost of maintenance. Nothing can be more unfair. Therefore, the demand notices impugned in this Writ Petition are quashed.

9.This Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

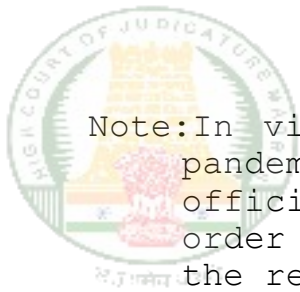
Assistant Registrar (CSI)

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/ /2020

Sub Assistant Registrar(CS)

Myr



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1.The District Forest Officer,
Court Complex, Trichirappalli.

2.The District Forest Officer,
Madurai Forest Circle,
Madurai-02.

+1 CC to M/s.GP (SR-18993[F] dated 05/10/2020)

+1 CC to M/s.D. GEETHA, Advocate (SR-19187[F] dated 06/10/2020)
G.R.SWAMINATHAN, J.

W.P. (MD)No.10706 of 2020
01.10.2020

SS (CO)

KB(14.10.2020) 3P 5C