

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12671 of 2021

Antony Clement Rubin

Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Chief Secretary
Fort St. George
Chennai 600 009.
2. The State of Tamil Nadu
rep. by its Secretary
Home Department
Fort St. George
Chennai 600 009.
3. Director General of Police
Dr. Radhakrishnan Salai
Mylapore
Chennai 600 004.
4. Additional General of Police (Operations)
Marutham Complex
No.17, Boat Club Road
R.A.Puram
Chennai 600 028.
5. Animal Welfare Board of India
Ministry of Fisheries, Animal Husbandry
and Dairying
National Institute of Animal Welfare Campus
P.O. 42 KM Stone, Delhi-Agra Highway, NH-2
Village-Seekri
Ballabhgarh, Faridabad
Haryana 121 004.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus quashing the auction notice No.139/04/2021 dated 24.04.2021 issued by the fourth respondent as violative of Section 11(1)(i) and (k) of the Prevention of Cruelty of Animals, 1960 and that the male Chippipaarai Dog of Tamil Nadu Commando School reflected in the said auction notice to be facilitated for adoption with the aid of any recognised animal welfare organisation.

For Petitioner : Mr.R.Ravichander

For Respondents: Mr.P.Muthukumar
Counsel for State
for respondents 1 to 4

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner seeks a direction for an auction notice dated April 24, 2021 issued by the fourth respondent to be annulled on the ground that the same is violative of Section 11(1)(i) & (k) of the Prevention of Cruelty to Animals Act, 1960.

2. Mr.Muthukumar, learned counsel for the Government takes notice on behalf of the respondents 1 to 4.

3. Clause (i) of the relevant provision requires animals not to be abandoned and further requires a person in charge of any animal to ensure that it does not suffer any pain by reason of starvation or thirst. Clause (k) prohibits any animal being offered for sale or any animal being possessed which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment. The petitioner suggests that the male Chippipaarai dog of the Tamil Nadu Commando School should be made over to any recognised animal welfare organisation and not auctioned merely because some person with extra money may bid the highest for the same. Indeed, it is the petitioner's apprehension that the dog may be purchased by a breeder purely for breeding purposes. The petitioner says that the conditions in which breeders maintain their animals are pathetic. In effect, the petitioner does not want this dog to be auctioned, so that it does not land in the hands of any breeder who does not treat dogs in his possession ethically or in a humane or reasonable manner.

4. The petitioner's apprehension appears to be at least one degree removed from the auction. The petitioner does not say that the auction is violative of the provisions referred to in the petition, but it has the possibility of the dog being placed

in the hands of a breeder and the conditions maintained by breeders not being appropriate. For one, it is not known - and, at any rate, no study or material is relied upon - that all dog breeders maintained unethical, unhygienic and inhumane conditions. No material in such regard is available with the petition. While it will remain open to the petitioner to bring such fact to the notice of the Court by way of any future litigation, so that the lot of dogs, particularly in possession of breeders may be improved, but the immediate challenge to the proposed auction does not call for any interference.

5. The only direction that may be issued is for the fourth respondent to ensure that the highest bidder for the dog has the resources and infrastructure to treat the dog in a humane manner and as is required in terms of the statute. There is no doubt that the fourth respondent will ensure the well-being of the dog before handing over the dog to the purchaser.

6. W.P.No.12671 of 2021 is disposed of. The petitioner is requested to forward a copy of this order to the fourth respondent as expeditiously as possible. There will be no order as to costs. As a consequence, WMP Nos.13464 and 13465 of 2021 are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

kpl

To:

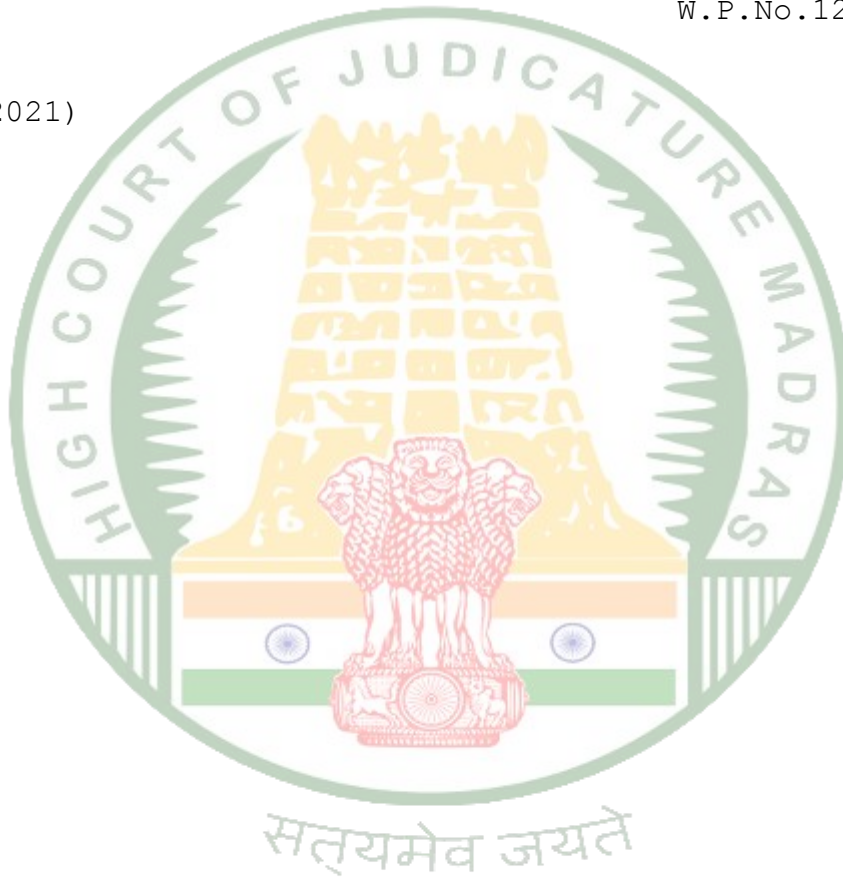
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+1cc to the Government Pleader, S.R.No.28035

W.P.No.12671 of 2021

RK (CO)
CB(21/06/2021)



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