

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Contempt Petition No.1358 of 2014

Kallebu Nagaraj

... Petitioner

Vs.

1.Chellappa

State rep by

S 11, Tambaram Police Station,
Tambaram, Chennai-600 045.

2.Arun Prasanna,

S/o. H.Ganesan

President,

People for Cattle in India,
208, Sai Niketan No.6 Lock Street,
Kottur, Chennai 85.

3.G.Sadhana Rao,

Trustee,

Indian Institute of Animal Welfare, No.3

9th South Cross Street,

Sri Kapaleswarar Nagar,

Neelangarai, Chennai 41.

...Respondents

PRAYER: Contempt Petition filed, under section 11 of the Contempt of Courts Act, 1971, to punish the respondent for disobedience of the order passed in CrI.R.C.No.1407/2013 dated 09.12.2013.

For Petitioner : Mr.P.Ganapathy

For R-1 : Mr.TShunmugarajeshwaran,
Government Advocate (Crl.Side)

R-2 & R-3 : Mr.S.Rajendra Kumar
For M/s.Norton and Grant

ORDER

The Contempt Petition has been filed by the petitioner, seeking to punish the respondent for wilful disobedience of the order passed by this Court in Crl.R.C.No.1407 of 2013 dated 09.12.2013.

2.The case of the petitioner is that he had purchased 28 cattle in West Godavari District, Andhrapradesh on 05.10.2013 and when it was transported through a lorry bearing Registration No.AP 13 Y 0613 to Pollachi Market, Coimbatore, it was intercepted by the 2nd respondent / Arun Prasanna who claimed to be the founder of the People for Cattle in India at Chengalpet Check Post and based on the complaint given by him the respondent has registered a case in Crime No.1583 of 2013 against the petitioner for the offence under Section 11 (1) (a) of the Tamil Nadu Prevention of Cruelty of Animals Act, 1960 read with Section 429 IPC.

3.The cattle were ordered to be left with the custody of the Indian Institute of Animal Welfare at Kabaleeshwarar Nagar, Neelangarai, Chennai, run by the 3rd respondent. The petitioner had filed a petition in

C.M.P.No. 16866 of 2013 under Section 451 read with 457 Cr.P.C., before the learned Judicial Magistrate, Tambaram, seeking for interim custody of the animals and the said petition was dismissed by the learned Judicial Magistrate, Tambaram. Against the said dismissal, the petitioner preferred a Criminal Revision before this Court and this Court considering the facts and circumstances, by an order dated 09.12.2013 directed the learned Magistrate to release the cattle in favour of the petitioner for interim custody on condition to produce Fixed Deposit Receipt for a sum of Rs.20,000/- to the credit of C.M.P.No.16866 of 2013, on the file of the learned Judicial Magistrate, Tambaram.

4.The petitioner had paid the amount of Rs.20,000/- by way of Fixed Deposit to the credit of C.M.P.No.16866 of 2013 and after the deposit, the learned Judicial Magistrate, Tambaram vide order in Dis.No.1965/13, dated 19.12.2013 had directed the 1st respondent police to release the 28 cattle in favour of the petitioner. After complying with the order passed by this Court, the petitioner approached the respondent for the release of 28 cattle but the respondent did not release the cattle, thereby, the petitioner filed a Contempt Petition before this Court.

5.The petitioner viz., Kallebu Nagaraj is present before this Court today and he has been identified by the counsel.

6.Learned counsel appearing for the petitioner would submit that this Court allowed Crl.R.C.No.1407 of 2013, by order dated 09.12.2013 setting aside the order passed by the learned Judicial Magistrate, Tambaram in C.M.P.No.16866 of 2013 and directed the respondents to return the cattle in favour of the petitioner. The petitioner also in due compliance of the order passed by this Court had deposited an amount of Rs.20,000/- and sought for release of the cattle, whereas, the respondents have not returned the cattle ship and they have not obeyed the order passed by this Court and thereby the respondents have committed contempt of this Court.

7.Learned Government Advocate (Crl.Side) appearing for the 1st respondent would submit that on the complaint given by the 2nd respondent, a case was registered in Crime No.1583 of 2013 for offence under Section 11 (1) (a) of the Tamil Nadu Prevention of Cruelty to Animals Act, 1960 and the interim custody of the cattle were handed over to the 3rd respondent for the safe custody. He would submit that totally 28 cattle were handed over to the 3rd respondent on 08.10.2013, out of which two died on the very next day itself and thereafter, 26 cattle were left with them. Since 17 cattle contracted Foot and Mouth disease (Komari) they were isolated and shifted from Neelangarai and kept in a Goshala at Tambaram in order to prevent the disease being spread to the other 514 cattle kept under the custody of the 3rd

respondent. Earlier, in due compliance of the order passed by this Court, 9 cattle were which were at Neelangarai were returned to the petitioner and he was directed to approach the 3rd respondent's Goshala at Tambaram, for taking the remaining 17 cattle, but he did not turn up. Over a period of time 6 cattle have died and the balance 11 cattle involved in this case are presently available in the custody of the 3rd respondent. He would submit that the 1st respondent does not have any intention to disobey the order passed by this Court and due to some miscommunication and due to shifting of the cattle to other Goshalas for safe custody, they were unable to comply with the order. However, he would submit that the 1st respondent seeks unconditional apology for not being able to comply with the orders passed by this Court and would pray that the 1st respondent may be purged of contempt.

8.The 2nd respondent has filed Affidavit, in which, it has been stated that pursuant to the complaint given by him, a case was registered in Crime No.1583 of 2013 and at the time of seizure itself many cattle were found with bruises and injuries all over their bodies and the cattle were completely emaciated because of the long and arduous journey and after they were seized by the respondent police they were handed over to the 3rd respondent for the safe custody. It has been further stated that some of the

cattle contracted Foot and Mouth disease and they were isolated and kept in a vicinity at Tambaram and later they have been taken to the Goshala run by the 3rd respondent and now kept at Venkatapuram Village, Pennalurpet Post, Uthukkottai Taluk, Thiruvallur District and only 11 cattle are available with the Indian Institute of Animal Welfare at Venkatapuram Village run by the 3rd respondent. Since some of the cattle have died due to diseases and age.

9. The 3rd respondent has filed an affidavit stating that they have received 28 cattle from the 1st respondent police on 08.10.2013 and 2 out of 28 cattle died on the very next day because of the injuries sustained by them during transportation and 26 cattle were left with them. The cattle were found to suffer from Foot and Mouth disease (Komari) and Veterinary Surgeon also certified to that effect and in order to avoid disease being spread to the other cattle maintained at the Goshala, 17 cattle were shifted to Goshala at Tambaram and earlier when the petitioner had approached them with the order of the Court and demanded to release the cattle, the respondent had handed over 9 cattle which were retained at Neelangarai. The other cattle were isolated and kept at Tambaram and after 17 cattle got recovered, they were taken to Goshala at Venkatapuram Village and that the owners of the cattle never visited them to get back the remaining cattle and that the cattle were maintained well by the 3rd respondent in their Goshala

and over the years 6 out of 17 died and 11 cattle are remaining with them.

10.Mr.S.Rajendra Kumar, learned counsel appearing for the 2nd and 3rd respondents would submit that the 2nd and 3rd respondents are doing voluntary service for the welfare of animals. On the complaint given by the 2nd respondent, a case has been registered and that the cattle were handed over to safe custody to the 3rd respondent and the 3rd respondent had maintained them properly. He would submit that some of the cattle died and that the respondents were taking proper care of the remaining cattle and due to the disease some of the cattle were shifted to Goshala at Venkatapuram Village. He would further submit that when the petitioner had come with the Court order, the respondents have released 9 cattle available at the Goshala at Neelangarai on the same day. The respondents have no intention to disobey the orders of the Court and it was informed to the petitioner that the remaining 17 cattle were maintained in the Goshala at Venkatapuram Village, whereas, the petitioner or his men did not turn up to take the cattle. However, the respondents were maintaining 17 cattle at Venkatapuram Village properly and over a period of time, 6 cattle died due to old age. He would submit that the respondents are prepared to abide by any orders passed by this Court and they are ready to hand over the remaining 11 cattle at any time. He would further submit that the respondents have no intention

to commit contempt and they have not deliberately or willfully disobeyed the orders passed by this Court, only due to miscommunication and non appearance of the petitioner for taking delivery, they have not returned the cattle. If the petitioner had come to Venkatapuram Village to take delivery, the respondents would have handed over the cattle to them then and there without waiting for any further orders. However, he would submit that the petitioner seeks unconditional apology.

11. Heard the counsels. Perused the materials placed on record.

12. This Court is able to see that due to foot and mouth disease some of the cattle have been shifted to the Goshala at Venkatapuram Village. When the petitioner had gone to the 3rd respondent, 9 cattle which were available in the Goshala at Neelangarai had been returned to the petitioner in compliance of the order and thereafter, the petitioner had not gone to the Goshala at Venkatapuram Village to take delivery of the cattle. Hence, this Court is of the opinion that the respondents have not committed any willful contempt and only due to miscommunication the cattle have not been returned to the petitioner. However, the 3rd respondent is directed to return the 11 cattle belonging to the petitioner which are maintained by them immediately in compliance of the order in CrI.R.C.No.14074 of 2013, dated 09.12.2013.

13.It is submitted by the learned counsel for the respondents 2 and 3 that the remaining 11 cattle are presently available at the following address.

The address of the Goshala is as follows:

Dr.Sadhana Rao,
Indian Institute of Animal Welfare,
Venkatapuram Village,
Pennalurpet Post,
Uthukkottai Taluk,
Thiruvallur District.
Mobile No:6379633095.

14.The 3rd respondent shall ensure that the cattle are returned to the petitioner forthwith. Mrs.K.Mini, Grade I Police, Tambaram Police Station is present before this Court. The 1st respondent shall assist the petitioner in getting back the 11 cattle from the 3rd respondent.

15.With these observations, this Contempt Petition stands closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

ssi

//Certified to be true copy//

Dated at Madras this the day of 2021.

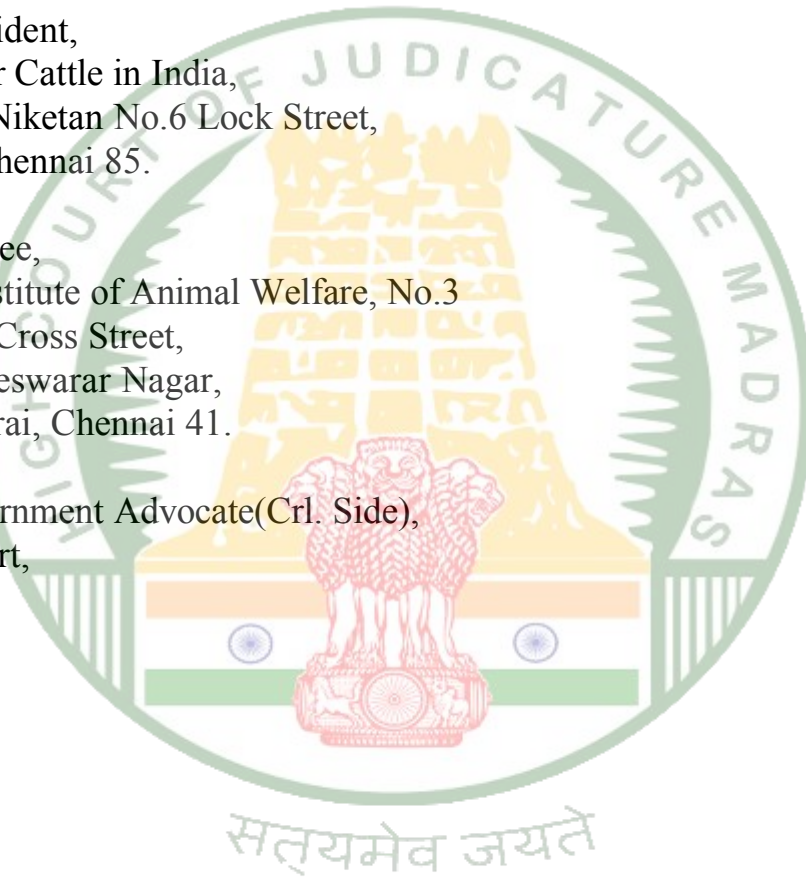
COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

IM/12/03/2021

To

- 1.The Inspector of Police,
S 11, Tambaram Police Station,
Tambaram, Chennai-600 045.
- 2.The President,
People for Cattle in India,
208, Sai Niketan No.6 Lock Street,
Kottur, Chennai 85.
- 3.The Trustee,
Indian Institute of Animal Welfare, No.3
9th South Cross Street,
Sri Kapaleswarar Nagar,
Neelangarai, Chennai 41.
- 4.The Government Advocate(Crl. Side),
High Court,
Madras.



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