



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Special Original Jurisdiction

Tuesday, the Twenty Ninth day of November Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice MOHAMMED SHAFFIQ

WP(MD). No.11705 of 2022

R. Mala

... Petitioner

Vs

- 1 The Principal Chief Conservator of Forests and Chief Wildlife Warden (FAC), Panagal Maligai, Saidapettai, Chennai.
- 2 The District Forest Officer, Madurai Division, Madurai 625 002.

... Respondents

Prayer :-

Writ Petition filed under Article 226 of Constitution of India , praying this Court to issue of Writ of Certiorarified Mandamus, calling for the records pertaining connected with the impugned order passed by the 1st respondent in Proc.No.WL1/12636/2019 dated 09.05.2022 and quash the same and further direct the respondents to hand over the Elephant Rupali to the petitioner and pass such further or other orders may deem fit and proper in the circumstances of the case and thus render justice.

ORDER:- This Wit Petition coming on for reporting Compliance of the order dated 09.11.2022 on this day, and upon hearing the arguments of Mr. Niranjan S. Kumar, Advocate for the Petitioner and of Mr. S. Shanmugavel, Additional Govt. Pleader, for the respondents, this Court made the following order:

The Writ Petition was disposed of vide order dated 09.11.2022 and the matter was listed under the caption "for reporting compliance". The Advocate Commissioner was appointed to ensure that inspection is carried out in a fair and transparent manner. A report dated 18.11.2022 was filed by the Advocate Commissioner and an inspection report of the District Level Elephant Welfare



Committee dated 14.11.2022 was also submitted. A reading of the Committee's report clearly shows that the facilities that were available is not in compliance with the facilities set out in the Tamil Nadu Captive Elephant Management Rules, 2011. The report of the Advocate Commissioner also appears to indicate that some of the facilities are unfinished, viz., swimming pool, shelter, though it is said to have been completed by the learned counsel for the petitioner and asbestos sheet is used in the shelter which is not permitted in terms of the said Rules.

2. A reading of the report of the District Level Elephant Welfare Committee, which is an expert committee as well as the report of the Advocate Commissioner, who was there to ensure that inspection is carried out in a fair and transparent manner, would reveal that presently the facilities found available are not in compliance with the Tamil Nadu Captive Elephant Management Rules, 2011.

3. For all the above reasons, the request of the petitioner for interim custody of the Elephant Rupali cannot be acceded to. The inadequacy in the facilities in terms of the said Rules is on the basis of the facilities that were found available on the petitioner's premises as on the date of inspection, i.e., 14.11.2022. However, this would not preclude the petitioner from contending/submitting before the learned Judicial Magistrate No.VI, Madurai in the interim application in CrI.M.P.No.2072 of 2019 in WLOR No.5 of 2019 for seeking interim custody of the Elephant Rupali that the petitioner has complied with the Tamil Nadu Captive Elephant Management Rules, 2011. This Court makes it clear that the learned Judicial Magistrate No.VI, Madurai shall dispose of the interim application pending before them on merits and in accordance with law.

4. With the above observations, this Writ Petition is closed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O)

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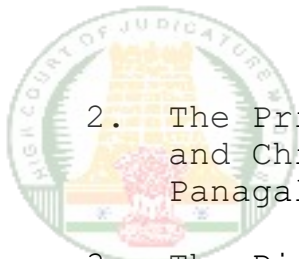
/12/2022

Sub Assistant Registrar (CS)

Lm
TO

1. The Judicial Magistrate No.VI,
Madurai.

<https://www.mhc.tn.gov.in/judis>



2. The Principal Chief Conservator of Forests
and Chief Wildlife Warden (FAC),
Panagal Maligai, Saidapettai, Chennai.

3. The District Forest Officer,
Madurai Division, Madurai 625 002.

4. The Officer In-charge,
District Level Captive
Elephants Welfare Committee,
Madurai.

Copy to:

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai

+ 1.C.C. To M/s. Niranjan S. Kumar SR.No.59021

ORDER DATED : 29/11/2022

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ORDER
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WP(MD). No.11705 of 2022

Giving direction and etc.
as stated within.

AMS(13.12.2022) 3P 7C