



W.P.No.42285 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.42285 of 2016
& WMP No.36187 of 2016

K.R.Andu Gowder

... Petitioner

Vs

1. The Principal Secretary/Commissioner of
Revenue (Administration),
Disaster Management and Mitigation
Ezhilagam, Chennai – 600 005.

2. The District Collector, The Nilgiris.

3. K.R.Arjunan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari calling for the records of the 1st and 2nd
respondents in R.A.No.5(2)87740/2007 dated 19.5.2016 and quash the same as
null and void.



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For Respondent : Mr.Veda Bagath Singh
Special Government Pleader – R1 & R2
Mr.A.G.Abhishek - R3

ORDER

The petitioner and the third respondents (R3) are brothers. Their father K.R.Range Gowder is said to have had four wives, the petitioner and one K.R.Raju, born through the 3rd wife and R3, through the 4th wife. Upon the demise of K.R.Raju, R3 is alleged to have claimed various properties of the deceased. To be noted, that K.R.Raju had left a Will and some portion of the writ affidavit relates to the veracity of the claims based on the Will which is unprobated.

2. However, I am of the considered view that the Will may have no relevance in this particular case, since the dispute between the petitioner and R3 relates to a gun licence and which is subject to various compliances, conditions and stipulations as set out under the Arms Act, 1959 (in short 'Arms Act'). Thus, I eschew all reference to the Will, the Original Petition and other Court proceedings relating to the same.

3. Yet another allegation raised by the petitioner is that R3 who was a sitting Rajya Sabha MP in 2016 when the Writ Petition was instituted, had not disclosed the gun licence in Form 26. According to the petitioner, there had



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been other false statements made in Form 26 and the accompanying affidavit as well.

4. These submissions are also extraneous to the issue to be decided in the Writ Petition. The challenge is to an order passed by the second respondent confirming the issuance of gun licence to R3. All that I am required to test is the veracity of order dated 19.05.2016 and whether the same is in compliance with the stringent requirements under the Arms Act.

5. At the hearing on 27.02.2023, I had directed the official respondents, being the Principal Secretary, Revenue (Administration), Disaster Management and Mitigation/R1 and the District Collector, the Nilgiris/R2 to obtain the application filed by R3 for issuance of gun licence and a copy of the licence itself. Since the impugned order makes reference to the reports of the field officers, i.e., Revenue Divisional Officer, Coonoor and the Superintendent of Police, Nilgiris, they were asked to produce those documents as well.

6. The demise of K.R.Raju was on 24.03.2002. The records reveal that R3 had made an application immediately thereafter for issuance of a gun licence, which was granted on 19.11.2003. The need for licence is stated as 'self-protection' and the arm in question is a Revolver (.32 pistol bearing No.100085, made in India).



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7. The petitioner immediately moved R2 to cancel the gun licence contending that the licence was based on an unregistered and forged Will. As stated earlier, the conditions for issuance of arms licence are independent of any external/extraneous document, and the grant or refusal of the licence would be bound strictly by the conditions under the Act.

8. The Arms Act, 1959 prohibits carriage of arms or ammunition except upon condition that the holder carries a licence for the same. Chapter III thereof, dealing with provisions relating to licence, contains Sections 13 to 18 dealing with grant of licence and connected provisions.

9. Section 13 provides for a person to file an application seeking grant of licence, containing required particulars, along with requisite fee. Section 13(2) states that the licencing authority shall call for a report of the officer in charge of the nearest police station and based on such report, the licencing authority may conduct such inquiry as he may deem it necessary and pass an order either granting or refusing the licence.

10. In the present case, this procedure has been followed by the authority. R2, in the course of hearing the appeal filed by the petitioner, has also sought for reports from the Revenue Divisional Officer and Superintendent of Police, Nilgiris District prior to confirming the grant of licence.



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11. In dealing with the application for grant of licence, the authorities would have no reason to go into the ownership of the asset itself. The Revenue Divisional Officer in his report dated 11.08.2006 does note that the acquisition of pistol by R3 is under an unregistered will. This, by itself, would not have any ramification on the issuance of the licence, as such, issuance must take note of only the requirement under the Arms Act. There is a categorical finding therein that R3 has not misused the weapon and the report of the Superintendent of Police reveals that there was no adverse remarks or charges as against him.

12. Counter affidavits have been filed by the second and third respondents. Counter of R2 is detailed in regard to the enmity between the petitioner and R3. The litigation had escalated to the level of a Civil Revision Petition in CRP(NPD) No.546 of 2005, wherein it is stated that R3 was not a legal representative of K.R.Raju. This order is stated to have been confirmed by the Hon'ble Supreme Court of India as well.

13. While the veracity or otherwise of the Will would have a bearing on the bequeaths thereunder, the impugned order relates to the grant of arms licence. The petitioner has not been able to establish violation of any procedure under that Act and a persual of the licence as well as the impugned order confirming the issuance of the same in favour of R3 do not reveal any infirmity.



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DR.ANITA SUMANTH,J.

14. The Writ Petition is thus dismissed as is the connected Miscellaneous
Petition. No costs.

03.03.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral Citation: Yes/No
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To

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