



W.P.(MD).No.21559 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21559 of 2023

and

W.M.P.(MD)No.17960 of 2023

N.Varadhan

... Petitioner

Vs.

1.The Principal Chief Conservator of
Forests,
Forest Head Quarters, Guindy,
Velachery Main Road, Velachery,
Chennai-600 032.

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

3.The District Forest Officer,
Cuddalore District Forest Office,
Cuddalore.

4.The Conservator of Forests,
Villupuram Circle, Villupuram.

5.The Forest Range Officer,
Chidambaram Forest Range,
Chidambaram, Cuddalore District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the 1st respondent herein in his proceeding C.No. WL1/1812/2023 dated 09.03.2023 and to quash the same and consequently, to direct the respondents herein to grant permission to the petitioner to change the location of Female Elephant “Roudi Lakshmi” from Arulmighu Punugu Karuppasamy Kovil, Peraiyur, Madurai to Shri Chidambaram Sabanayagar Temple in the interest of Female Elephant Roudi Lakshmi.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.B.Saravanan

Additional Government Pleader

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the proceeding, dated 09.03.2023 of 1st respondent and consequently, to direct the respondents herein to grant permission to the petitioner to change the location of Female Elephant “Roudi Lakshmi” from Arulmighu Punugu Karuppasamy Kovil, Peraiyur, Madurai to Shri Chidambaram Sabanayagar Temple in the interest of Female Elephant Roudi Lakshmi.



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2.The petitioner is the administrator of Arulmighu Punugu Karuppasamy Kovil. The temple is in possession of female elephant by name Roudi Lakshmi and has obtained certificate of ownership under Section 42 of Wildlife Act, 1972 under the Certificate No.05 of 2021, dated 17.12.2021. Whenever the temple festival was celebrated in other parts of the state, with the permission of the department after complying with all formalities, the said elephant was moved from Madurai. The said elephant has taken part in the festival celebrated in Shri Chidambaram Sabanayagar Temple and the elephant was maintained by trained Mahout Mr.A.Pitchaikani right from the day one.

3. Recently, the Administrator decided to change the location of the elephant, since there is no enough space in Arulmighu Punugu Karuppasamy Temple to maintain the elephant. Hence, a representation, dated 19.01.2023, was submitted seeking permission to transfer the place of the elephant to Shri Chidambaram Sabanayagar Temple. The said elephant is already having acquaintance of the Shri Chidambaram Sabanayagar Temple where the elephant was enjoying the swimming pool, mud bath, etc. The petitioner has deposited



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Rs.36,00,000/- (Rupees Thirty Six Lakhs only) in the name of the elephant in order to maintain the elephant. But the respondents have rejected the application through the impugned order and the reason cited is that Hon'ble First Bench of this Court has passed an order in W.P.(MD)No.7655 of 2020, dated 27.02.2023, wherein it is specifically restrained acquisition of elephants in religious institutions and the same ought to be strictly enforced. Therefore, the transfer of the said elephant from Arulmighu Punugu Karuppasamy Kovil to Shri Chidambaram Sabanayagar Temple is construed as acquisition by the Shri Chidambaram Sabanayagar Temple, hence, the transfer is not permitted.

4. The Learned Additional Government Pleader appearing for the respondents referred to Section 43 of the Wildlife (Protection) Amendment Act, 2022 and substantiated the impugned order. The section states as under:

“43. Regulation of transfer of animal, etc.—(1) No person having in his possession captive animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership shall transfer by way of sale or offer for sale or by any other mode of consideration of commercial nature, such animal or article or trophy or uncured trophy.



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(2) Where a person transfers or transports from the State in which he resides to another State or acquires by transfer from outside the State, any such animal, animal article, trophy or uncured trophy in respect of which he has a certificate of ownership, he shall, within thirty days of the transfer or transport, report the transfer or transport to the Chief Wild Life Warden or the authorised officer within whose jurisdiction the transfer or transport is effected.

Provided that the transfer or transport of a captive elephant for a religious or any other purpose by a person having a valid certificate of ownership shall be subject to such terms and conditions as may be prescribed by the Central Government."

5. On perusing the above said section, it is seen that the private individuals are prohibited from transferring animal for consideration. In the present case, there is no consideration at all. The petitioner is seeking to transfer in order to maintain the elephant, since the petitioner temple is not having sufficient place in the temple and the Shri Chidambaram Sabanayagar Temple is having sufficient place and the Shri Chidambaram Sabanayagar Temple has also accepted to receive the elephant. In fact, the petitioner has deposited Rs.36,00,000/- (Rupees Thirty Six Lakh only) in the name of the



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elephant in order to maintain the elephant.

6. The section referred supra is not prohibiting for transfer of place, it is only prohibiting transfer of animals for consideration. Therefore, the impugned order cannot be sustained and the impugned order is quashed. The respondents are directed to grant permission to the petitioner to transfer the elephant to Shri Chidambaram Sabanayagar Temple. However, possessory rights shall be with the petitioner alone.

7. With the above directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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(2/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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Note: Issue order copy on **11.09.2023.**



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To

- 1.The Principal Chief Conservator of
Forests,
Forest Head Quarters, Guindy,
Velachery Main Road, Velachery,
Chennai-600 032.
- 2.The District Forest Officer,
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Madurai-02.
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S.SRIMATHY, J.

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