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W.P.(MD)NO.15272 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15272 of 2020 AND

W.M.P.(MD)Nos.12827 & 12828 of 2020

Arulmigu Subramaniasamy Thirukoil,
Through its Deputy Commissioner / Executive Officer,
Thirupparankundram,
Madurai – 625 005. ... Petitioner

Vs.

1. The Principal Chief Conservator of Forests and
Chief Wild Life Warden,
“Panagal Maligai”, Saidapet, Chennai – 600 015.
2. The District Conservator of Forests,
Cantonment,
Trichy -1. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the second respondent passed in Na.Ka.No.4517/2020/௫ dated 05.09.2020 and quash the same and direct the second respondent not to demand any amount from the petitioner.

For Petitioner : Mr.S.Manohar

For R-1 & R-2 : Mr.K.S.Selvaganesan,
Additional Government Pleader.

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**ORDER**

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Heard both sides.

2. The writ petitioner is a well known temple which attracts pilgrims from all over India. The temple was having an elephant by name Deivanai. The said elephant ran amok while being taken for a routine walk on 24.05.2020. One Kalidasan who was assisting the regular mahout was attacked by the elephant and killed. The temple management felt that it would not be safe to keep custody of the temple so long as its behaviour was not in order. They therefore handed over the same to the custody of the Forest Department. The elephant was being maintained in M.R. Palayam Elephant Camp.

3. The Forest Department called upon the petitioner to pay a sum of Rs.3,04,032/- towards the cost of maintenance. Challenging the same, this writ petition came to be filed.

4. The learned counsel appearing for the petitioner rightly points out that Tamil Nadu Captive Elephants (Management and Maintenance) Rules, 2011 provides for recovering the cost of maintenance only in respect of the maintenance of aged elephants. Rule 14 reads as follows:-



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“ **14. The aged elephants taken by the Department.**—The aged elephants which could not be maintained by the temple / Private authority shall be taken by the Forest Department after due checkup by Forests Veterinary Officer / Assistant surgeon. The cost of maintenance should be born by the Hindu Religious and Charitable Endowments Department or Temple or Private authority.”

5. The elephant in question was aged around 17 years at the relevant point of time. Obviously Deivanai is not an aged elephant. Therefore, the demand made by the Forest Department is not consonance with the aforesaid statutory rule. The question that calls for consideration is whether the de hors the said rules, the Department was justified in raising the demand on the temple.

6. I need not go into the said question. When the writ petition was listed for admission, this Court granted an order of interim stay on 04.11.2020. The said interim order was subsequently extended on 02.12.2020. Thereafter, the petitioner wrote to the Forest Department and took back custody of the elephant after remitting the entire cost. The learned Additional Government Pleader states that the Forest Department



has since remitted the said amount to the Government Treasury. In these circumstances, the question of contesting the validity of the impugned demand does not arise at all. The matter has become infructuous. The writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.01.2024

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

PMU

To:

1. The Principal Chief Conservator of Forests and
Chief Wild Life Warden,
“Panagal Maligai”, Saidapet, Chennai – 600 015.
2. The District Conservator of Forests,
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G.R.SWAMINATHAN,J.

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