

GANG08-000857-2020

**IN THE COURT OF JUDICIAL MAGISTRATE FIRST  
CLASS, AT PONDA, GOA.**

(Before Ms. Manashree M. Naik, J.M.F.C., 'C' Court, at Ponda)

**Criminal Case No.67/AOA/WLP/2020/C**

State  
Represented by  
Range Forest Officer,  
Ponda Goa. ... Complainant

Versus

1. Shri Bhagwan Gangaram Shinde,  
R/o Near Sahakari Spice Farm at  
Curti, Ponda Goa. ... Accused
2. Shri Balaknath Ganganath Maharaj,  
R/o at Post Ravalgao,  
Taluka Malegao,  
Dist. Maharashtra. ... Accused

**APPEARANCES**

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Ms. V. Redkar, Assistant Public Prosecutor, for the State.

Ms. V. Gaonkar, Advocate, for the Accused no. 1 and 2.

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**ORDER**

(Delivered on 25<sup>th</sup> July, 2022)

This order shall dispose of the application filed by the Assistant Public Prosecutor for transfer of elephant ( Janimani) to WRRC (Wild Life Rescue and Rehabilitation Centre) at Karnataka as per directions of High Court in PIL Writ Petition No. 30/2022 at exhibit D-13.

2. The Prosecution submitted that a PIL Writ petition No. 30/2022 was filed by the People for Animals of Goa and the same is pending before the High Court. It is further submitted that the High Court on 18.07.2022, has directed that, the elephant that is the subject matter of the present case ( Janimani) is required to be transferred to WRRC (Wild Life Rescue and Rehabilitation Centre) at Karnataka.

3. Hence, prayed that permission be granted to transfer the elephant ( Janimani) to WRRC (Wild Life Rescue and Rehabilitation Centre) at Karnataka in accordance with order of High court.

4. Adv. for the Accused endorsed her say on the said application.

5. Perused the records and heard Ld. A.P.P. Ms. V. Redkar for the State and Ld. Adv. Ms. V. Gaonkar for the Accused.

6. By perusing the High Court order, it is learnt that the subject matter of the present case, the elephant (Janimani), presently is housed at Sahakari Spice Farm and the Lordship after going through the matter, had come to conclusion that elephant (Janimani) was used for commercial purpose. Therefore, the elephant was required to be transferred to WRRRC (Wild Life Rescue and Rehabilitation Centre) at Karnataka, so that it is properly treated and cared.

7. Chief Wild Life Warden being the authorized Officer to follow the following conditions:

**Permission to transfer elephant (Janimani).**

- a) Mode of transport: by road
- b) Route: as per the convenience.
- c) Period allowed for transport: to be decided accordingly by the Chief Wildlife Warden.
- d) Remark : the transportation is to be carried out as per the conditions mentioned below.

**Conditions**

- 1) Before beginning of the transportation/transfer of the elephant (Janimani), he should be diagnosed by a

certified veterinary doctor and health/ medical certificate should be submitted to the Court.

- 2) Necessary videography and photographs of the elephant (Janimani) should be taken before and after the transfer of the elephant to WRRC and accordingly report should be sent to the Court.
- 3) Transportation of elephant ( Janimani) should be done in good large vehicle so that no harm could be caused to the elephant or other people and the route for transport which is convenient should be taken and time for transport should be decided accordingly, by Chief Wildlife Warden.
- 4) Roadside trees, and branches should not be cut while transporting the elephant (Janimani).
- 5) No damages should be caused to the public or property.
- 6) Mahout to accompany the elephant (Janimani) during transportation/transfer to WRRC.
- 7) During the period of transportation/transfer to WRRC, necessary fodder, drinking water and medicines for the elephant ( Janimani) should be packed and taken.

8) WRRC to process the admission and transportation formalities and accordingly take the custody of elephant (Janimani) for its treatment and its rehabilitation.

Pronounced in open Court.

(Manashree M. Naik)  
**Judicial Magistrate First Class,  
'C' Court, Ponda, Goa.**

Nv/-

**Note:** case regarding ownership will be decided on merits and cost of transportation can accordingly be recovered later.

Suchitra

**IN THE HIGH COURT OF BOMBAY AT GOA**

**PIL WRIT PETITION NO.30/2022**

PEOPLE FOR ANIMALS  
GOA THROUGH ITS  
PRESIDENT MS. NORMA  
ALVARES

... Petitioner

*Versus*

THE PRINCIPAL CHIEF  
CONSERVATOR OF  
FORESTS AND CHIEF  
WILDLIFE WARDEN AND  
6 ORS.

... Respondents

Mr. Om D'Costa, Advocate *for the Petitioner.*

Mr. D. Pangam, Advocate General with Ms. Maria Correia,  
Additional Government Advocate *for the State.*

Mr. A. D. Bhohe, Advocate *for Respondent No.5.*

Mr. Abhijit Gosavi, Advocate *for Respondent No.6.*

Mr. Nigel da Costa Frias and Mr. G. Malik, Advocates *for  
Respondent No.7.*

WITH

MISC. CIVIL APPLICATION NO.1547/2022 (F)

BHAGWAN GANGARAM SHINDE

aged 59 years, Modha Vasti,  
Ravalgaon, Malegaon, Nashik,  
Maharashtra, 423108  
9967463231

... Intervenor

Mr. J. Lobo, Advocate *for the Intervenor.*

IN  
PIL WRIT PETITION NO.30/2022

PEOPLE FOR ANIMALS GOA  
THR, ITS PRESIDENT NORMA  
ALVARES

... Petitioner

*Versus*

THE PRINCIPAL CHIEF  
CONSERVATOR OF FORESTS  
AND CHIEF WILDLIFE WARDEN  
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Mr. A. D. Bhohe, Advocate *for Respondent No.5.*

Mr. Abhijit Gosavi, Advocate *for Respondent No.6.*

Mr. Nigel da Costa Frias and Mr. G. Malik, Advocates *for  
Respondent No.7.*

**CORAM: M. S. SONAK &  
R.N. LADDHA, JJ.**

**DATED: 18<sup>th</sup> JULY 2022**

**P.C.:**

1. Heard Mr. Om D'Costa for the petitioner. Learned Advocate General appears along with Ms. Maria Correia, learned Additional Government Advocate for respondents no.1, 2 and 3, Mr. Ashwin Bhohe for respondent no.5, Mr. Abhijit Gosavi for respondent no.6, Mr. Nigel da Costa Frias for respondent no.7 and Mr. J. Lobo for Mr. Bhagwan Shinde who seeks to intervene in this matter.

2. For the present, we are satisfied that some urgent orders are necessary concerning the elephant Janimani (Zonimoni) presently housed at the Sahakari Spice Farm (respondent no.5).

3. From the material placed in this petition and on hearing the learned counsel for the petitioner, learned Advocate General, Mr. Bhobe, Mr. Lobo, Mr. Gosavi and Mr. Costa Frias, we are satisfied that *prima facie* Janimani is used for commercial purposes. From the material on record we are also satisfied that the elephant, Janimani is required to be transferred to the Wild Life Rescue and Rehabilitation Center (WRRC) at Karnataka so that she is properly treated and cared for.

4. Mr. Bhobe, learned counsel for respondent no.5, on instructions has stated that respondent no.5 will have no objection to the transfer of Janimani. The learned Advocate General has stated that even the Forest Department feels that it would be appropriate to transfer Janimani to WRRC.

5. Mr. Costa Frias, the learned counsel for the WRRC also states that the elephant can be transferred to their Center for treatment and rehabilitation. He however points out that they have place for only six elephants out of which three places are already taken up. He therefore submits that if the transfer is not effected early, then, there may be some issue if in the meanwhile



some other elephants have to be admitted for rehabilitation. Mr. Om D'Costa, learned counsel for the petitioner also submits that the transfer may be effected as early as possible so that the apprehension expressed by Mr. Costa Frias is addressed.

6. The only opposition to the transfer of Janimani comes from the intervenor Mr. Bhagwan Shinde. Mr. Lobo on his behalf submits that the intervenor is the actual owner of the elephant. He submits that the elephant is in perfect health and not used for any commercial purposes but only for exhibition purposes. He admits that the monthly expenditure for the upkeep of the elephant is ₹2 lakhs. However, he submits that Mr. Shinde is not in a financial capacity to deposit any amount in this Court to demonstrate at least *prima facie* that he has the financial capacity.

7. Mr. Lobo submits that Mr. Shinde is already facing a criminal prosecution and he will defend the same and prove his innocence. He submits that no orders may be made for transferring the elephant.

8. At least *prima facie* all such contentions on behalf of Mr. Shinde cannot be accepted. The records indicate that the prosecution was launched against him because he was unable to produce proper ownership documents. The Criminal Case

No.67/AOA/WLP/2020/B/C is pending before the Court of the Judicial Magistrate First Class at Ponda against Mr. Shinde. Besides, as noted earlier, the material on record belies Mr. Shinde's contention that the elephant is not being used for commercial purposes. It is quite inconceivable that Mr. Shinde claims to be spending ₹2 lakhs on the elephant without exploiting the elephant commercially. Mr. Shinde expressed inability to make any financial deposit in this Court to prove his bonafides. At the behest of Mr. Shinde therefore, it would not be appropriate to prolong the agonies of the elephant or to delay the transfer of the elephant to WRRC.

**9.** Learned Advocate General submitted that permission will be necessary from the JMFC Ponda for the transfer. He states that such application seeking permission will be filed before the Court of JMFC, Ponda at the earliest. We request the JMFC, Ponda to dispose of this application at the earliest keeping in mind the urgency of the situation. Mr. Costa Frias's contention about the limited slots at the WRRC should also be considered. Such application should be disposed of within three days from its institution.

**10.** Learned Advocate General has stated that about a month's time would be necessary to effect the transfer. He also stated that

efforts would be made to transfer the elephant at the earliest but an outer limit of one month is sought for. Some reasonable time would certainly be required. However, we will appreciate if the Forest Department officials act with utmost dispatch so that there is no delay in the matter. We also request the WRRC to process the admission and transportation formalities immediately from now itself so that Janimani is properly treated and rehabilitated.

**11.** The intervention application No.1547/2022 (F) is allowed and Mr. Bhagwan Shinde is impleaded as respondent no.8. Necessary amendment be carried out forthwith. Mr. Lobo waives service on behalf of respondent no.8 and states that further affidavit will be filed on or before 10.08.2022.

**12.** We place this matter for further consideration on 10.08.2022. All concerned to act on the authenticated copy of this Order.

**R.N. LADDHA, J.**

**M. S. SONAK, J.**

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