

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Thirty First day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

WP (MD) No.20001 of 2018

ANTONY CLEMENT RUBIN ... PETITIONER/PETITIONER

Vs

- 1 THE STATE OF TAMIL NADU,
REP. BY ITS CHIEF SECRETARY, FORT ST.GEORGE,
CHENNAI- 600 009, TAMILNADU.
- 2 THE STATE OF TAMIL NADU,
REP BY SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF ENVIRONMENT AND FORESTS,
FORT ST. GEORGE, CHENNAI-600 009. TAMIL NADU
- 3 PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
FOREST DEPARTMENT, GOVERNMENT OF TAMIL NADU,
PANAGAL MALIGAI, SAIDAPET,
CHENNAI- 600 015, TAMIL NADU.
- 4 HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BOARD,
REP BY THE COMMISSIONER,
HINDU RELIGIOUS CHARITABLE ENDOWMENTS DEPARTMENT,
119, UTHAMAR GANDHI SALAI,
NUNGAMBAKKAM, CHENNAI - 600 034, TAMILNADU
- 5 EXECUTIVE OFFICER,
ARULMIGU SAMAYAPURAM MARIAMMAN TEMPLE,
13/1, MARUTHUR RD., TRICHIRAPALLI-621 112,
TAMIL NADU.
- 6 ANIMAL WELFARE BOARD OF INDIA,
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE,
GOVT OF INDIA, NATIONAL INSTITUTE OF ANIMAL
WELFARE CAMPUS, PO. 42 KM STONE, DELHI-AGRA HIGHWAY, NH-2,
VILLAGE-SEEKRI, BALLABHGARH, FARIDABAD,
HARYANA-121 004.

(*) 7 S.MURALIDHARAN

(*) 8 M.SOLAIKANNAN

<http://www.judis.nic.in>

(R) & 8 ARE IMPEADED VIDE COURT ORDER DT.

10/10/18 IN WMP (MD) NOS.19031 & 19039/18) ... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus, directing the respondents to take steps to permanently shift Elephant Masini to her earlier home i.e. Theppakadu Mudumalai Camp, in the interest of her un keep and health and to live her life in a natural and accustomed environment and to confer on Masini and other elephants, the legal personhood and right to bodily liberty, integrity and autonomy, the right against commercial exploitation, torture, cruel and degrading treatment, right to physical and mental wellbeing, the right to interact and socialize with other elephants and to uphold the right to a dignified life.,

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.V.PRAVIN RATHINAM, Advocate for the petitioner and of MR.A.K.BASKARA PANDIAN, Special Government Pleader for R1 to R4, MR.R.MURALI Advocate for MR.K.GOVINDARAJAN Advocate for R5, MR.S.PARAMASIVAM, Advocate for R6, MR.P.CHOCKALINGAM, Advocate for R7 and MR.A.K.AZAGARSAMI, Advocate for R8 the court made the following order:-

[Order of the Court was made by **M.M. SUNDRESH, J.**]

Much time has been spent in this matter. However, we do not propose to go into the larger issue. In fact, we have heard some of the Experts in this regard. The report dated 26.10.2018 filed by the Dean Professor and Head, Department of Veterinary Medicine, Veterinary College & Research Institute, Orathanadu, Thanjavur, is hereunder:-

A captive female elephant aged about 10 years, named Masini, belonging to Arulmigu yapuram Mariamman Temple, HR&CE, Govt. of Tamilnadu was presented to the Veterinary College & Research Institute Hospital, Orathanadu, on 13.07.18, after about 45 days from the initial episodes of multiple blunt trauma, as per the history. Elephant was said to be treated by local veterinarians and it was reported that the elephant was not taking feed with oozing of pus from few wound sites. Feeding related history revealed lack of adequate green fodders and it was fed predominantly rice - based diets.

On clinical assessment, edema at ventral abdominal regions was observed. Pus releasing exit points were noticed in forelimbs and in the margins of broken tush. The elephant was clinically diagnosed to have impacts of multiple blunt trauma.

The elephant was under continuous medical care at the Veterinary College and Research Institute Hospital, Orathanadu from 13th July 2018 onwards. Following 'intensive

therapy, gradual improvement was noticed and the ventral oedema also gradually reduced. Wound-care was instituted to manage the wounds related to ventral edema. The wounds had healed well and the fistulous tracts are healing now.

TANUVAS Expert Team consisting of Dr.M.G.Jayathangaraj, Professor and Head, Department of Veterinary Clinical Medicine, Madras Veterinary College, Chennai and Dr.Mohammed Shafiuzama, Professor, Department of Veterinary Surgery and Radiology, Madras Veterinary College, Chennai and Dr.K.Senthilkumar, Assistant Professor, PGIARS, Kattupakkam had assessed the health status and reviewed.

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Elephant's overall health status and intake of feed and water had improved. The animal is active and alert and walks daily for more than an hour. The defecation and urination activities are normal. Clinical laboratory values indicate the current health status of the elephant.

As the health status of the elephant had improved following treatment, it needs to be shifted to its shelter premises and the follow up wound-care for chronic wounds needs to be continued with the veterinarians of the Animal Husbandry Department, Govt. of Tamil Nadu. Further, accommodating this elephant for longer periods inside the hospital campus may increase the risks for possible hospital borne infections, due to frequent visit of cattle, sheep, goat, pet animals, etc. to the hospital. Hence, it was advised to shift the elephant to its shelter premises. The expert team of TANUVAS will extend necessary technical assistance as and when required".

2. The Dean, who is present before us, has informed us that the elephant - Masini requires further medical care, apart from better environment for physical and mental condition. We do not propose to travel anything beyond that, notwithstanding the submissions made by the newly impleaded respondents.

3. Today, the learned Special Government Pleader produced records, which would show that a communication has been sent by the Forest Veterinary Doctor to the Principal Wildlife Animal Warden, who is the competent authority under the Rules to take a call. Therefore, we refrain ourselves from expressing anything, except by observing that the needful will have to be done, as per the report of the Dean Professor and Head, Department of Veterinary Medicine, Veterinary College & Research Institute, Orathanadu, Thanjavur, dated 26.10.2018, with respect to the further treatment as well as to create a better environment. Therefore, we direct the Principal Wildlife Warden to transport the elephant - Masini from the present place to Mudhumalai Elephant Camp. This order, we pass by keeping in mind the interest of the elephant - Masini, as the report would suggest that at least till 2016, it was taken care of only at the

Mudhumalai Elephant Camp. In fact, it was born in the said area and thereafter, it was brought up till the time of handing over to the temple in the year 2016. It would be better to send her to the aforesaid place, as we feel that the condition of the elephant - Masini would improve in a better environment. We also direct the Dean Professor and Head, Department of Veterinary Medicine, Veterinary College & Research Institute, Orathanadu, Thanjavur, to interact with the duty doctor at Mudhumalai Camp. As there is no dispute with respect to the treatment already given, which paved way for the recovery of the elephant - Masini, for continuous treatment, such interaction is required.

4. In such view of the matter, the Dean Professor and Head, Department of Veterinary Medicine, Veterinary College & Research Institute, Orathanadu, Thanjavur, is directed to have a periodical visit on elephant - Masini once in a week situated at Mudhumalai Camp, in the presence of veterinary doctor. Further, the official respondents should also make sure that a Veterinary Doctor is available on a permanent basis, at the Mudhumalai Camp. A report will have to be filed jointly by the Veterinary Doctor and the Dean Professor and Head, Department of Veterinary Medicine, Veterinary College & Research Institute, Orathanadu, Thanjavur, about the health condition, after the elephant - Masini is transported to the Mudhumalai Camp. Such a report will have to be filed during the next hearing, scheduled to be fixed on 20.12.2018.

5. The Registry is directed to post the Writ Petition on 20.12.2018.

sd/-

31/10/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE CHIEF SECRETARY,
STATE OF TAMIL NADU, FORT ST. GEORGE,
CHENNAI- 600 009, TAMILNADU.
- 2 THE SECRETARY TO THE GOVERNMENT,
STATE OF TAMIL NADU,
DEPARTMENT OF ENVIRONMENT AND FORESTS,
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- 3 PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
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4 THE COMMISSIONER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BOARD,
HINDU RELIGIOUS CHARITABLE ENDOWMENTS DEPARTMENT,
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VILLAGE-SEEKRI, BALLABHGARH, FARIDABAD,
HARYANA-121 004.

COPY TO:-

THE DEAN PROFESSOR AND HEAD,
DEPARTMENT OF VETERINARY MEDICINE,
VETERINARY COLLEGE & RESEARCH INSTITUTE,
ORATHANADU, THANJAVUR.

+1. C.C. to MR.V.NIRMAL KUMAR Advocate SR.No.20898
+1. C.C. to MR.K.GOVINDARAJAN Advocate SR.No.20868

ORDER
IN

WP(MD) No.20001 of 2018
Date :31/10/2018

MSI/PN/SAR-II/12.11.2018-5P/10C

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