

(2009) 09 MAD CK 0130

In the Madras High Court

Case No : Writ Petition (MD) No. 8218 of 2009 and M.P. No. 1 of 2009

Sonia Proteins York Shire White Piggery Farm

APPELLANT

Vs

The District Collector, The Joint Director of Animal Husbandry
and The President, Vandiyur Panchayat

RESPONDENT

Date of Decision : 02-09-2009

Acts Referred:

Citation : (2009) 09 MAD CK 0130

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : T. Pon Ramkumar, for the Appellant; D. Gandhiraj, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

T.S. Sivagnanam, J.—The petitioner is the owner of a property comprised in R.S. No. 69/3A, Vandiyur BIT I Panchayat, Madurai District, measuring an extent of 43 cents. It is the case of the petitioner that during 1994, he had started an integrated Farm in the said land, which was classified as an agricultural land. She had kept poultry, turkey, yorkshire, white pigs in the Farm. According to the petitioner, the farm has been kept in a very hygienic conditions and the animals in the farm have been periodically checked by the Officials of the Tamil Nadu Veterinary and Animal Sciences University, Branch at Madurai and there has been no complaints according to her. The petitioner further states that she is the first person in Tamil Nadu producing Gobar Gas by utilizing pig wastes and the Madurai East Panchayat Union has sanctioned the gobar gas unit and has also given subsidy. The waste water generated is used in the fish pond and scientific treatment is adopted and the waste water has been converted into non-toxic. According to the petitioner, not even a drop of water is discharged from the pond. The husband of the petitioner is a Veterinary Surgeon and he also visits the Farm regularly.

2. According to the petitioner, on 19.05.2009, the Officials of the Tamil Nadu

Veterinary and Animal Sciences University, Central University Laboratory, Chennai conducted a surprise inspection and even in that inspection, it was found negative for Swine Influenza. The Government of Tamil Nadu also run Piggery Farms in various places like Hosur, Tirunelveli, Kattupakkam, Pudukottai, Chettinad etc. It is the contention of the petitioner that the H1N1 virus is wrongly named as Swine Flu and people think the virus spreads through pigs. The Government of Tamil Nadu has also announced in the media that there is no nexus between H1N1 virus and the pigs. On 14.08.2009, the third respondent telephonically informed the petitioner to close down her farm. The petitioner has sent a representation in this regard to the first respondent on 18.08.2009, requesting him to direct the third respondent not to pressurize the petitioner to close down the farm. In spite of that there is threat from the third respondent, which has necessitated the petitioner to approach this Court with the aforesaid prayer.

3. This Court heard the submissions of the learned Counsel for the petitioner and the learned Government Advocate appearing for the petitioner.

4. After hearing Mr. Pon Ramkumar, learned Counsel for the petitioner, at the time of admission, when the matter came up on 20.08.2009, I directed the learned Government Advocate to get instructions and posted the matter for orders on 21.08.2009. On 21.08.2009, the learned Government Advocate appearing in the matter requested time for verification. Accordingly, the matter was posted on 26.08.2009 and an interim direction was issued to the second respondent to depute an Officer to inspect the petitioner's piggery farm and submit a report. The matter was subsequently posted on 26.08.2009 and on that day, the learned Government Advocate submitted a report dated 25.08.2009 by the Regional Joint Director of Animal Husbandry, Madurai-20. In the said report, it has been stated that based on the telephonic message received on 21.08.2009, on information of the learned Government Advocate, a team of officers consisting of the Regional Joint Director of Animal Husbandry, Madurai, Deputy Director of Animal Husbandry, Cattle Breeding and Fodder Development, Madurai and Assistant Director of Animal Husbandry, Madurai took up the matter and visited the petitioner's Piggery Farm at Vandiyur on 24.08.2009 and based on the such inspection, a report has been submitted with the following opinion:

All the 72 animals now kept in the said farm are apparently healthy. Assistant Director of Animal Husbandry, Animal Disease Intelligence Unit, Madurai visited the farm on 22.08.2009. Randomly 7 Nos. of Blood Serum samples and 7 Nos. of Nasal Swabs have been collected and sent to Central Referral Lab, Chennai for investigation and results awaited.

Though the Piggery farm is maintained moderately well, foul smelling adour and the house flies prevail in large number.

Finally, as the farm is situated in the dwelling area, this may be shifted to some far away places early.

5. A perusal of this report would show that the animals kept in the Farm are healthy and the random samples of blood serum and nasal swab have been collected and was referred to the Central Referral Lab, Chennai and the results of the investigations are awaited. It is also to be noted that in the report there is a statement that the piggery Farm is maintained moderately well, but, however, there is an allegation of foul smelling odour and house flies in large number. Further, in the penultimate paragraph of the report, an observation is made to the effect that the Farm is situated in dwelling area, therefore, the same may be directed to shift away to some far away place early.

6. As could be seen from the report, which has been referred above, the animals are healthy and as on date, there is no adverse materials against the petitioner, since the investigation report is awaited from the Central Referral Lab. No doubt, the nature of activity conducted by the petitioner is bound to produce some foul smell, the petitioner is required to adopt the standards of hygiene prescribed by the appropriate authorities of such Farm. These are all matters, which have to be dealt with in accordance with relevant rules and regulations. The third respondent cannot telephonically threaten the petitioner to question the activity, which she has been carrying on from the year 1994, which according to the petitioner without any complaints from any person. If there is any material adverse to the interest of the petitioner, it is, but, appropriate for the authority to issue proper notice to the petitioner by affording an opportunity to them and thereafter proceed in accordance with law. Therefore, I am inclined to accept the submissions of the learned Counsel for the petitioner that such telephonic threat to close down the farm is wholly illegal.

7. The observation that the petitioner has to shift to far away place is bereft of any particulars. According to the petitioner, the lands, in which the Farm has been located was purchased by her as an agricultural property in the year 1994 and there is no change of classification of the land and the land is only used as a Farm for such purpose. Therefore, if there is any re-classification of the area, by such observation, the petitioner cannot be directed to shift to any far away place. Therefore, this report cannot be a basis for directing the petitioner to shift the Farm to a far away place.

8. Hence, in view of the above, I am inclined to accept the case of the petitioner and accordingly, the Writ Petition is allowed. However, it is made clear that the competent authorities, who could regulate the activities of the petitioner can always initiate proper action in accordance with law, after affording peaceful opportunity to the petitioner. No costs. Consequently connected Miscellaneous Petition is also closed.