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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.2545 of 2021

Dr.T.Murugavel

.. Petitioner

Vs.

1.The Principal Secretary to Government
of Tamilnadu,
Environment and Forest Department,
Fort St. George,
Secretariat, Chennai - 600 009.

2.The Principal Chief Conservator and
Chief Wildlife Warden,
Tamil Nadu Forest Department,
Panagal Maligai,
Saidapet, Chennai.

3.The Field Director,
Mudumalai Tiger Reserve,
Mount Stuart Hill,
Ooty, The Nilgiris.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus forbearing the respondents from capturing/bringing the male elephant known as Rivaldo in the Sigur plateau of Nilgiris District.

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For Petitioner : Mr.R.Srinivas

For Respondents : Mr.S.R.Rajagopal
Addl. Advocate General
assisted by
Mr.S.V.Vijay Prashanth
Spl. Govt. Pleader (Forest)
for respondent Nos.1 and 2

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

This is one of the matters pertaining to an elephant that may have a happy ending, at least at this stage.

2. An elephant, popularly called Rivaldo, was sought to be captured and the writ petitioner, an animal-lover, brought it to the attention of the Court that the purpose for the capture and the capture may not be in the best interest of the relevant elephant. An initial order was passed that required a report to be filed.

3. It is heartening to note that not only have the senior forest department officials shown interest in the matter, the Principal

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Secretary to the State Government, heading the Environment and Forest Department, has also taken a keen interest.

4. Before dealing with Rivaldo in particular, a general impression must be recorded. There appear to be many elephants in captivity in the State, whether in connection with temples or being used as beasts of burden by their human captors or even in official duties. While some elephants may be used by forest officials for the general maintenance of the forest and to traverse the length and breadth of the forest to assist other habitants thereat, the number of elephants in captivity in the State appears to be much more than what may be ignored. Oftentimes, the elephants may not be fed appropriately or even treated properly, particularly by those using elephants as beasts of burden.

5. While some attention has been given to the forest land being preserved, there are corridors between one forest and another which have come to be occupied by humans in recent times. As elephants retrace their steps from one forest to another through the passages which used to be the corridors, they come into conflict with the

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human inhabitation and many an elephant has suffered a gruelling death, whether by bursting crackers or by being set on fire or by electrocution. For such purpose, it is not only imperative that forest land be maintained and preserved, but also that the corridors between two forests be left as untouched as possible.

6. There are times when roads, particularly highways, cut through a forest and the only way from one side to the other is by crossing the road. It is also usual for settlements to come alongside highways which impede the access of the animals. In several countries, flyovers or humps are created at places to allow the usual access to the animals and in other places humps are created over roads and planted green to allow animals to cross over without stepping on the roads.

7. It may be an expensive proposition, but if the humans are going to cut through forest by building roads, avenues and pathways have to be left open or made anew for the animals to cross over from one side to the other without disturbing the traffic.

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8. As far as Rivaldo is concerned, a detailed report has been submitted together with photographs. The essence of the report is that Rivaldo has been captured, but not kept chained, and the only purpose is to provide healing to his chopped trunk which impedes his food intake and to take care of the impaired vision in one eye. The State reports that Rivaldo is now doing well and the State does not intend to keep Rivaldo in captivity for any great length of time, as long as Rivaldo shows signs of recovery.

9. The Court is no expert to ascertain how much time should be given to an animal like Rivaldo to recover and to be returned to the wild. The petitioner expresses concern at the dwindling number of male elephants and the skewed gender ratio because of poaching for the invaluable tusk.

10. In the light of the report filed by the State, it may be encouraging to note that there appears to be more concern now for animals and preservation of forest land. The Court can only hope that the Environment and Forest Department and all personnel therein put their best foot forward to not allow a further inch of forest

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land to be desecrated and preserve such of the corridors linking the forests that remain while endeavouring to restore some of the old corridors, particularly those which are the only passages from one forest to the other. Since the State says that Rivaldo may be released into the wild after the reasonable time necessary for treatment, the petitioner has also accepted the position.

11. Accordingly, W.P.No.2545 of 2021 is disposed of without any further order, but by requesting the respondent authorities to do all things necessary for the preservation of forests and animal and plant life and take note of the observations herein. It may also do well to rope in genuine animal-lovers and persons who have conducted scientific studies so that the expertise in the area may be put to good use. There will be no order as to costs. Consequently, W.M.P.No.2888 of 2021 is closed.

(S.B., CJ.) (S.K.R., J.)
19.03.2021

Index : No
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To:

WWW.LIVELAW.IN

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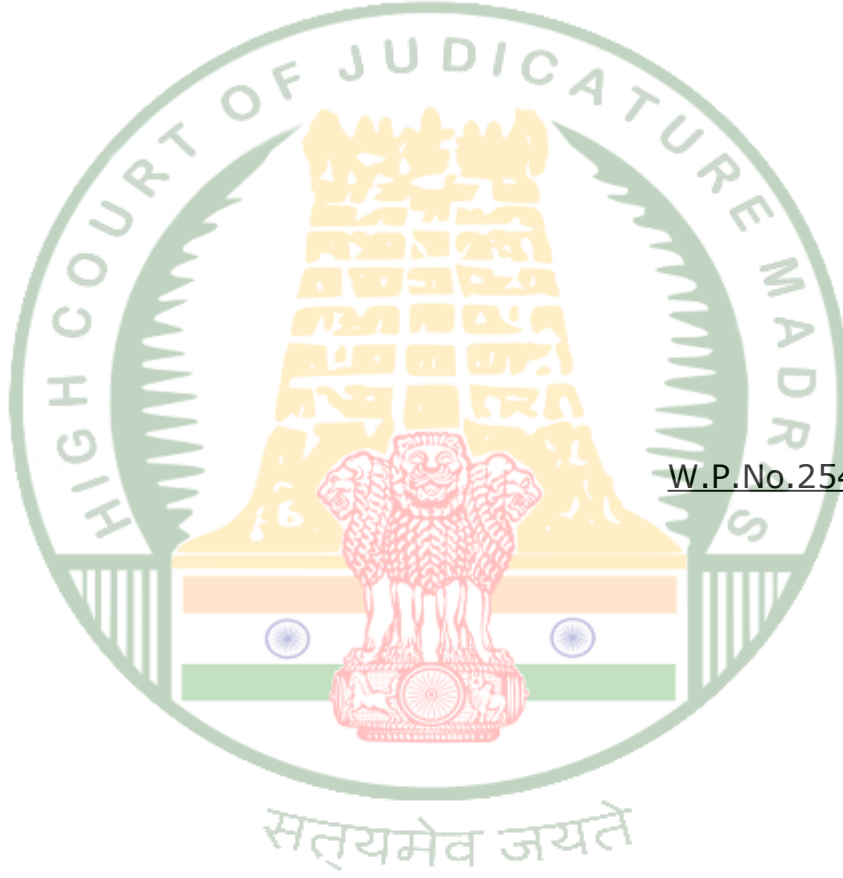
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W.P.No.2545 of 2021

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

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W.P.No.2545 of 2021

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