

**A.K.JAYASANKARAN NAMBIAR, J.  
&  
GOPINATH P., J.**

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**W.P.(C).NO.13204 OF 2021**  
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**Dated this the 5<sup>th</sup> day of April, 2023**

**O R D E R**

**Gopinath P., J.**

Read orders dated 23.03.2023 and 29.03.2023. These orders were passed on account of the situation that arose from the reports of a wild tusker [who goes by the moniker 'Arikkomban'] trespassing into human settlements. The Chief Wildlife Warden, Kerala had issued an order on 21.02.2023 [produced as Ext.R18(a) along with the affidavit of the 18<sup>th</sup> respondent] authorising the tranquillization and capture of the aforesaid elephant. The said order gave three options to the officers who were tasked with the capture. These options were (i) to tranquillise and radio collar the animal to monitor its movements; (ii) to tranquillize and capture the elephant and shift it to an elephant camp functioning under the Forest Department; and (iii) to tranquillize, capture and relocate the animal to another habitat.

2. On 23.03.2023, we had issued an order preventing the capture of the animal for the reasons indicated in that order.

Thereafter, through the order dated 29.03.2023, we had constituted an Expert Committee consisting of -

- (i) Sri. Arun R.S - Chief Conservator of Forests (High Range Circle), Kottayam.
- (ii) Sri. Pramod P.P. - Chief Conservator of Forests & Field Director, Project Tiger, Kottayam
- (iii) Dr. NVK Ashraf - Chief Veterinarian & Vice-President, Wildlife Trust of India
- (iv) Dr. P.S. Easa - Chairman of Care Earth Trust, Chennai and former Director of Kerala Forest Research Institute.
- (v) Sri. Ramesh Babu - learned Senior Counsel, and the Amicus Curiae appointed by this court, who shall function as the convener of the Committee.

3. The said Committee has today submitted a report which, *inter alia*, indicates the following:

- (i) The area in issue falls within the territorial limits of the Chinnakkal and Santhanpara Panchayaths in Udumbanchola Taluk in Idukki District. It is reported that this area is known as the 'Anayirankal area' . The report indicates that the area was an elephant habitat that had some traditional settlements of the tribal Muthuvan community, who peacefully co-existed and continue to co-exist with the wild animals in the area. The report indicates that subsequent unscientific resettlements in the area have given rise to human-animal conflict. The report also indicates that over time, the conflicts have escalated to other areas which are mentioned in

paragraph (2) of the report.

(ii) The Committee met on 30.03.2023, 31.03.2023, 02.04.2023 and 03.04.2023 and conducted site visits to the affected areas.

(iii) The Committee is unanimous in its opinion that the wild tusker must be captured, radio-collared and relocated to the Muthuvarachal/Orukomban falling within the Parambikulam Tiger Reserve.

(iv) The basis of the selection of the site is mentioned as having taken note of the following factors:

- “(a) That it is part of a larger landscape with plentiful food and water and natural resources required for its survival.
- (b) The site of relocation may gradually shape the animal's behaviour making it less likely to seek anthropogenic resources over time.
- (c) The site is most likely to avoid human-wildlife conflict.”

4. The report of the Committee suggests that the members of the Committee were also alert of the fact that the animal in question is presently in 'Musth'. The Committee, however, is of the opinion that even though the animal is in Musth, tranquillizing it, radio-collaring it and translocating it to the Parambikulam Tiger Reserve will not cause any harm to the animal.

5. Having considered the report of the Committee and having

heard the counsel appearing for the various parties in this writ petition including parties who sought to get themselves impleaded in the writ petition as also the learned Additional Advocate General appearing for the State of Kerala, we are of the opinion that the Committee has considered all the relevant aspects and has come to the conclusion that the best possible way to deal with the present situation is only to capture, radio-collar and translocate the animal to the Parambikulam Tiger Reserve. We are convinced that this is the best option, despite the submission of the learned Additional Advocate General that it is for the Chief Wildlife Warden to take a final decision as to whether the elephant has to be translocated or kept in captivity.

6. It was the peculiar circumstances in this case that warranted the appointment of a Committee of Experts to take a decision since the order passed by the Chief Wildlife Warden [Ext.R18(a)] was itself ambiguous, and not clear on which of the various options suggested by him was to be exercised. Now that the Expert Committee comprising, *inter alia*, of Dr. P.S. Easa, Chairman of Care Earth Trust, Chennai and former Director of the Kerala Forest Research Institute and Dr. NVK Ashraf, Chief Veterinarian and Vice President, Wildlife Trust of India both of whom are known Experts in the field, has given its opinion in the matter, we deem it

apposite to defer to their opinion on the issue.

7. Sri.Ramesh Babu, the learned senior counsel and Amicus Curiae has brought to our notice that the translocation of the animal will require the active participation of various Government Departments and especially the following Departments:

- (i) Revenue Department
- (ii) Forest Department
- (iii) Police Department
- (iv) Kerala Fire and Rescue Services Department and
- (v) Kerala State Electricity Board

8. The learned Additional Advocate General assures us that the Officials and Departments of the State Government will offer all necessary assistance for the safe translocation of the animal to the Parambikulam Tiger Reserve, as directed by this Court. We therefore direct the District Collector, Idukki, District Collector, Thrissur, and the District Collector, Ernakulam to personally supervise the translocation of the animal while the convoy passes through their respective Districts so that the transportation of the animal is carried out seamlessly and without any hindrance. The District Police Chiefs/Rural District Police Chiefs, through whose jurisdictions the

convoy will pass, will ensure that sufficient police personnel are deployed and escort is provided to ensure safe passage of the animal to the Parambikulam Tiger Reserve. The Chief Engineer (Distribution) Kerala State Electricity Board, shall, on receipt of a copy of this order, issue necessary instructions to the Officers concerned in the route of the convoy to ensure that on request, the electric supply shall be suspended for the necessary time to ensure that there is no harm caused to the animal on account of overhanging electrical cables.

9. Sri. Arun R.S, the Chief Conservator of Forests (High Range Circle), Kottayam, Sri.Pramod P.P., the Chief Conservator of Forests & Field Director, Project Tiger, Kottayam and Sri.Dr. Arun Sakharia, the Chief Forest Veterinary Officer shall be in overall control of the capture and shifting of the elephant as directed in this order and they shall personally accompany the animal while it is being shifted from Idukki to Parambikulam Tiger Reserve. The animal shall be radio collared using GPS and VHF Technology, which, it is reported, can be procured for the purpose. We also make it clear that during the capture, radio collaring and transport of the elephant, members of the public shall not be permitted to videograph or transmit any images of the elephant being captured, transported or released at the Parambikulam Tiger Reserve. No celebrations or beating of drums or

bursting of crackers shall be permitted anywhere near the animal after its capture or during its transport. The District Administration of the concerned District shall, if deemed necessary, issue prohibitory orders in this regard in exercise of jurisdiction under Section 144 of the Code of Criminal Procedure.

10. While the above directions are issued in connection with the immediate capture and translocation of the elephant 'Arikkomban' we also feel it necessary to initiate steps towards finding a lasting solution to the perennial problem of human-animal conflict in various districts in the State, especially in Idukki, Palakkad and Wynad. We therefore direct that the Committee of Experts constituted by us through our last order shall consider the proposals put forward by the Officials of the Forest Department in the document titled "Proposal on Conservation of Elephants at Anayirangal, Chinnakanal, Devikulam Range of Munnar Forest Division, Idukki District, Kerala" [hereinafter referred to as 'the Proposal'] that has been placed before us. We have gone through the said document that, among other things, requires the Delineation of the Anayirangal National Park, the Delineation of the Anayirangal Conservation Reserve and the Delineation of the Anayirangal Community Reserve. Having gone through the report, we are *prima facie* of the opinion that the recommendations contained in the report

have to be considered seriously for they are absolutely necessary to protect the life of human settlers in the area as also the property comprised in such settlements. We are constrained to take this view because the present situation clearly indicates that unless emergent steps are taken, the instances of human-animal conflict will continue in the area. We therefore direct that the Committee of Experts will hold emergent meetings with the Principal Secretary, Revenue, Principal Secretary, Forest and Wildlife Department, District Collector, Idukki and such other officials as the Convener of the Committee deems appropriate to try and implement the suggestions in the said document. The CoE shall also go through the report of the Elephant Task Force, Ministry of Environmental and Forests dated August 31, 2010 that also contains suggestions on the steps to be taken to mitigate human elephant conflict situations. The latter report has been taken note of by the Supreme Court in matters involving maintenance of elephant corridors in the country. The Committee shall thereafter endeavour to file a report before this court as regards the steps that can be taken towards implementation of the proposals aforementioned, and the time frame within which they can be taken.

11. Pending a study by the CoE of the proposals aforementioned, and with a view to mitigate the anxiety and fear of



the people most affected by the instances of human-animal conflict in Idukki District, we deem it appropriate to constitute a Task Force comprising of the following officials to deal with the problem of human-animal conflict in Idukki District:-

- (i) The Revenue Divisional Officer concerned,
- (ii) The Chief Conservator of Forest (Project Elephant) having jurisdiction over the area,
- (iii) The District Police Chief and
- (iv) The Panchayat President of the Panchayath concerned

12. The District Police Chief, who will be the common factor in the task forces constituted for the different Panchayaths in the region, will be the Convenor of each of the Task Forces constituted for the various Panchayaths in Idukki District, wherein, cases of human-animal conflict occur. The task forces as above shall be constituted within a week, and they shall immediately proceed to formulate measures to prevent elephant incursion into human settlement areas within the territorial limits of the respective Panchayats. In formulating the said measures, they shall consult the local people who are most affected by such instances of human-animal conflict. A report with regard to the constitution of the said Task Forces, and the functioning thereof, shall be submitted before

this court within three weeks from today by the District Police Chief, Idukki. The Task Forces shall also specifically advert to the question as to whether any accumulation of municipal waste within the areas of the Panchayats in question attracts the animals to human settlement areas, and if so, the measures to be taken to abate the same.

Post on 26.5.2023 along with W.P.(C).No.10551 of 2023.

**Sd/-  
A.K.JAYASANKARAN NAMBIAR  
JUDGE**

**Sd/-  
GOPINATH P.  
JUDGE**