



**WP(MD)No.7655 of 2020**

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**G.R.SWAMINATHAN, J.**

Shri.B.Jeyamohan is an eminent literary figure. One of his books “*Aram*” has recently been translated by Ms.Priyamvada and published under the title “*Stories of the True*”. “Elephant Doctor” (யானை டாக்டர்) figuring in the book presents Dr.K not as a mere Veterinarian but as one who dedicated his entire life for elephant care. I wish the Veterinarians attached to the Department of Forests and Department of Animal Husbandry read this story and imbibe the spirit of the protagonist. Only then Lalitha will become what she was.

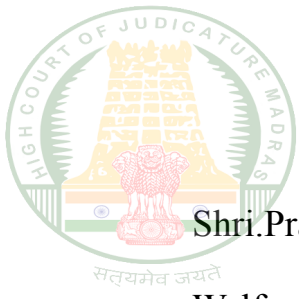
2.Lalitha is a female elephant. Mr.S.G.M.Shaa @ Sheik Mohammed was having her custody and possession. He had purchased her on 08.05.2000. His request for transfer of ownership was rejected by the Principal Chief Conservator of Forests and Chief Wildlife Warden, Chennai vide proceedings dated 23.03.2020. Challenging the same, he filed WP(MD)No.7655 of 2020. The writ petition was disposed of by upholding the order passed by the authority. However, the petitioner was permitted to



retain custody of Lalitha. The authorities were given liberty to inspect her at any time. They were given liberty to move this Court for variation of the arrangement if circumstances warranted.

3.The above order was passed by me on 10.09.2020. On 09.12.2022, Lalitha had fallen down and suffered injuries. Proper treatment was not given. It suffered two more falls on 01.01.2023 and 02.02.2023. Even though the caretakers had been periodically sending me reports and photographs of Lalitha during the last two years, the recent unfortunate turn of events was not brought to my attention. Ms.Sunitha, an animal rights activist based in Virudhunagar had texted Mrs.Prema Veeraraghavan of Chennai about Lalitha's condition. At the request of Mrs.Prema, I met Shri.Prakash of Elsa Foundation. I visited Lalitha on 26.02.2023 along with the aforesaid activists. We observed the following wounds on the body of the elephant :

- a) on the right hind leg – thigh region
- b) nail crack on the front right leg
- c) subcutaneous oedema on the abdomen
- d) front right leg bed sore
- e) deep cavity on the forehead
- f) protruding spine

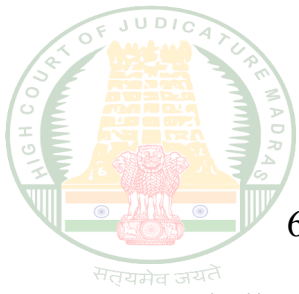


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Shri.Prakash had an interaction with Dr.T.R.Jayakrishnan, Honorary Animal Welfare Representative associated with AWBI and has given a report setting out what needs to be done.

4.I informed the caretakers as well as the counsel that the case will be taken up today at 03.00 P.M. The owner had sent a plaintive mail. The case was listed under the caption “For being mentioned” today. The earlier order passed by me categorically mentioned that the arrangement set out therein could be varied. I am more than satisfied that the caretakers have miserably failed to measure up to the confidence reposed in them by this Court. They have forfeited the right to retain custody of Lalitha any further.

5.After the issue was taken to the notice of the Principal Chief Conservator of Forests, Chennai-32, he issued Proc.No.WL1/5247/2023 dated 21.02.2023 permitting the District Forest Officer and Member Convenor, District Level Captive Elephant Welfare Committee, Srivilliputhur to take custody of Lalitha and to give proper medical treatment in the present place. The question that calls for consideration is as regards the follow up measures to be taken.



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6. Article 48-A of the Constitution of India mandates that the State shall endeavour to protect the wildlife of the country. The Wildlife Protection Act, 1972 was enacted with the express object of protecting wild animals, birds and plants and for matters connected therewith. Article 51-A (g) states that it shall be the duty of every citizen of India to protect wildlife and to have compassion for living creatures. Section 3 of Prevention Cruelty to Animals Act, 1960 states that it shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the wellbeing of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering. Since at present the State is having the charge of Lalitha, it is the statutory and constitutional duty of the State to take all possible measures to cater to her physical and medical needs.

7. It is seen that the Regional Joint Director, Animal Husbandry Department, Virudhunagar had requested his counterpart at Madurai to permit Dr. Kalaivanan, VAS, ADIU, Madurai to offer his guidance in the matter. The Assistant Director, ADIU has been instructed to relieve Dr. Kalaivanan for this purpose. The Secretary to Government, Animal Husbandry Department, Chennai is directed to ensure that Dr. Kalaivanan is



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pecially assigned to cater to the medical needs of Lalitha till she recovers fully. Proceedings to this effect shall be issued forthwith and without delay so that Dr.Kalaivanan can attend to Lalitha from tomorrow morning onwards (28.02.2023). Dr.Kalaivanan has to attend to her on a daily basis till she regains her normal health. Even though Dr.Kalaivanan is now working in Animal Husbandry Department, he was earlier associated with Forest Department and was in-charge of Mudhumalai Elephant Camp as Veterinarian.

8.Dr.Kalaivanan shall submit a comprehensive report tomorrow itself regarding the dietary and medical treatment plan through e-mail to the District Collector, Virudhunagar. Lalitha shall be given healthy and nutritious food as prescribed by the Doctor. The quality and quantity of water being made available for the elephant shall also be checked. If unsuitable hard water is being given, alternative arrangement shall be made. All medicines needed to resuscitate her shall be made available without delay. The District Collector, Virudhunagar District is directed to implement the same in letter and spirit. It is also open to the District Collector to issue a call to the civil society and enlist their assistance. Once Lalitha recovers completely and is certified to be fit for transportation, she shall be taken to



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an appropriate Government Elephant Rehabilitation Camp for lifelong care and custody. Dr.Kalaivanan had already certified that Lalitha above 60 yrs.

As per Rule 10 of Tamil Nadu Captive Elephants (Management and Maintenance) Rules, 2011, no elephant shall be put to any work on attaining the age of 60 years. Of course, there is a proviso to the said Rule which is not applicable to the case on hand. It is declared that Lalitha has reached the retirement age. She shall henceforth be given only food and care. She shall not be made to work any further.

9.Dr.Kalaivanan shall take a call as to whether treatment can be given at the existing spot. The shed is made up of tin sheet roof. Summer season has already started and every endeavour shall be made to keep the ambience as cool as possible and shift Lalitha to a better spot earliest. The District Administration shall take further steps based on the instruction to be given by the Doctor.

10.The present Mahout and his assistant are directed to continue to be in the service of the elephant for four more months. A sum of Rs.10,000/- shall be paid to each of them per month by the District Legal Services Authority, Virudhunagar. This Court will make appropriate arrangements in



this regard. No proceedings shall be initiated against the said Mahouts by the department.

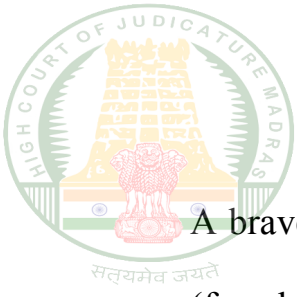
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11.Ms.Sunitha of People for Animals, Virudhunagar is permitted to associate herself in the entire process. She shall be permitted to access the elephant at all times.

12.The elephant is presently is in the premises of Muthumariamman Temple, Virudhunagar. Loud music is being blared through amplifiers. I am certain that it should be posing a serious disturbance to the elephant. To Lalitha, it can only be an unbearable noise beyond acceptable decibel levels. She may not be able to appreciate devotional content. The Inspector of Police, Virudhunagar Town Police Station (jurisdictional police) is directed to ensure that the ambience is kept free of noise pollution.

13.Few other thoughts cross the mind. Elephant as a character figures prominently in ancient Tamil literature. Sangam Poet Perunchithirananar requests Kumanan to gift him an elephant. Many Pura Nanuru poems refer to elephants. In Aga Nanuru (102), poet Senthankoothan sings thus :

“படாஅப் பைங்கண் பாடுபெற்று ஒய்யென  
மறம்புகல் மழகளிறு உறங்கும்”.



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A brave young elephant comes to graze an agricultural field. The thalaivi (female protagonist) is singing a melodious Kurinji Pann (song). On listening to it, the elephant falls asleep. Thiruvalluvar also talks about elephant in the following couplets :

“வினையான் வினையாக்கிக் கோடல் நனைகவுள்  
யானையால் யானையாத் தற்று.

To make one undertaking the means of accomplishing another (similar to it) is like making one rutting elephant the means of capturing another.

“கடாஅக் களிற்றின்மேற் கட்படாம் மாதர்  
படாஅ முலைமேல் துகில்”

The cloth that covers the firm bosom of this maiden is (like) that which covers the eyes of a rutting elephant.

“சிதைவிடத்து ஒல்கார் உரவோர் புதையம்பிற்  
பட்டுப்பா டூன்றுங் களிறு.”

The strong minded will not faint, even when all is lost; the elephant stands firm, even when wounded by a shower of arrows. I am grateful to Shri.Ravi Subramaniam for the aforesaid literary references.

14.Compare the picture of elephant painted by Thiruvalluvar in Couplet 597 with the captive elephants we see in temples and in private hands. Shri.Prakash of Elsa Foundation has already published a detailed report on the living conditions of captive elephants. He made a presentation





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before the Hon'ble First Bench in WP Nos.3656 of 2021 etc., The Hon'ble First Bench vide order dated 24.09.2021 had directed that the State should ensure that no further elephant is taken into captivity. In many a temple, the elephants are housed in absolutely unacceptable conditions. The concrete flooring, the tin roofing, the lack of freedom and poor supply of food make their lives hell. They are chained 24 hours a day. The drunk mahouts inflict terrible pain and cruelty on them. Separated from their natural family and unable to bear the torture, the poor animals do sometimes turn aggressive and violent. On May 2018, Masini, the Samayapuram temple elephant trampled the mahout to death. Instead of understanding her behavior psychologically, the Forest Department officials had her beaten up mercilessly. Even after seven months of medical treatment, Masini could not walk. She was thereafter shifted to Mudhumalai elephant camp following intervention by the Principal Seat of the Madras High Court.

15. The Secretary to Government, Environment and Forest Department should cause an inspection of all temple and other privately owned elephants. The direction of the Hon'ble First Bench that there should be no more acquisition of elephants by private individuals or religious institutions must be scrupulously and strictly enforced. Time has now come to take a



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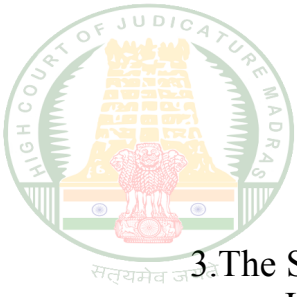
call if all such elephants now in captivity (both temples and privately owned) should be shifted to Government Rehabilitation Camps. The Secretary to Government, Environment and Forest Department may coordinate with the Secretary to Government, HR&CE Department in this regard. The Secretary to Government, HR&CE Department shall issue a direction to all the temples in Tamil Nadu not to acquire any elephants anymore. Shri.Prakash of Elsa Foundation informed the Court that there are suitable places in Thiruppathur District and Salem District for establishing rehabilitation camps. He has also prepared a detailed report in this regard. He felt that the Trichy MR Palayam Camp is not all that suitable. I am certain that a meeting between the Secretary to Government, Environment and Forest Department and Shri.Prakash would yield lasting solution.

**27.02.2023**

SKM

**To**

- 1.The Secretary to Government, Animal Husbandry Department,  
Government of Tamil nadu, Secretariat, Chennai.
- 2.The Secretary to Government, Environment and Forest Department  
Government of Tamil nadu, Secretariat, Chennai.



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3. The Secretary to Government,  
Hindu Religious and Charitable Endowments Department,  
Government of Tamil nadu, Secretariat, Chennai.

4. The Principal Chief Conservator of Forest, Chennai-32.

5. The District Collector, Virudhunagar District.

6. The District Forest Officer, Virudhunagar District.

7. The Inspector of Police, Virudhunagar Town Police,  
(jurisdictional police), Virudhunagar.



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VERDICTUM.IN



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