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THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.5310 of 2023

(In the matter of an application under Section 482 of the Criminal Procedure Code, 1973)

Dhyan Foundation **Petitioner**

-Versus-

State of Odisha & others **Opp. Parties**

For the Petitioner : Mr. Sidharth Luthra, Senior Advocate &
Mr. T.K. Sahu, Mr. A. Anand,
Mr. P. Singhal, Mr. R.R. Gupta, Advocates

For the Opp. Parties : Mr. P.K. Maharaj
Nos.1 & 2 Additional Standing Counsel

For the Opp. Party : Mr. Jayanta Kumar Majhi,
No.3 Mr. Gopal Krushna Acharya &
Mr. Madan Mohan Mishra, Advocates

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

JUDGMENT

Date of Hearing: 22.02.2024: Date of Judgment : 16.04.2024

S.S. Mishra, J.

1. The petitioner has preferred the instant petition assailing the legality and judicial propriety of the impugned order dated 01.11.2023

passed by the learned District and Sessions Judge, Mayurbhanj, Baripada in Criminal Revision No.28 of 2023 setting aside the order dated 16th September, 2023 passed by the learned Judicial Magistrate First Class-1 (Cog. Taking), Baripada in Criminal Misc. Case No.249/2023, whereby the Revisional Court released the seized cattle to opposite party No. 3 on the grounds *inter alia* that there is absolutely no bar for the accused owner in taking custody of the animals during the pendency of litigation. Petitioner seeks indulgence of this court under inherent jurisdiction against the said order.

2. It is contended by the petitioner that Jharapokhoria P.S. Case No.164 of 2023 was registered under Section 279 read with Section 34 of the Indian Penal Code and Section 11(1)(d)(e)(f) of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as 'the PCA Act'), 9 numbers of cattle were rescued while being illegally transported in a goods carrier vehicle bearing registration No.MH-40-BL-2759 without proper care and arrangement of water, food and medical aid. It is further contended that the local police handed over the cattle to the present petitioner for immediate care, protection and maintenance as they were in extremely weak and miserable condition. No health inspection, identification and marking of such animals were

conducted as per Rule 3(a) of the Prevention of Cruelty to Animals (Care and Maintenance of Case Property Animals) Rule, 2017 (hereinafter referred to as ‘the Rules’).

3. In the meantime, the opposite party No.3 filed Criminal Misc. Case No.249/2023 before the learned Judicial Magistrate, First Class-1 (Cog. Taking), Baripada under Section 457 of Code of Criminal Procedure for release of the cattle in his favour claiming himself to be the owner. However, the learned Magistrate vide order dated 16th September 2023 (Annexure-6) rejected the petition of the opposite party No.3. The opposite party no.3 being aggrieved and dissatisfied preferred Criminal Revision No.28/2023 before the learned District and Sessions Judge, Mayurbhanj, Baripada. The revisional Court allowed the petition of the opposite party no.3 vide the order dated 1st November,2023 (Annexure-5) which is impugned in the present petition.

4. The Revisional Court, while allowing the revision petition of the opposite party No.3 vide its order dated 01.11.2023 has, *inter alia*, stated as follows: -

“Considering the above submissions and rival submissions of both the parties and on going through the documents available in the L.C.R., I find that the petitioner is the registered owner of the said seized cattle. Undisputedly, the S.I. of Police, Jharapokharia P.S. seized the said cattle on the allegation of commission of the

*offence U/Sec. 279/34 I.P.C. read with Sec. 11(1)(d)(e)(f) of the Prevention of Cruelty to Animals Act. It reveals that trial of the said C.T. Case has not yet commenced. The learned Court below has also called for a report from the concerned P.S. relating to requirement for the purpose of investigation wherein, the I.O. has submitted that the alleged seized cattle in question is not required for further investigation. In the backdrop of the above facts and law, recourse may be taken of a ruling of our own High Court given in the case of **Gau Gyan Foundation-Rudrashram Gaushala vs. The State of Odisha and another** reported in (2023) 90 OCR 337. In the Rudrashram Gaushala Case Hon'ble Court referred some principal ruling as relied by Revisionist. In the just mentioned Rudrashram Gaushala case, the Hon'ble Court held that there is no absolute ban for the accused owner in taking custody of animals during the pendency of litigation. So being alive to the said position of law, this Court is of the opinion that the Revision Petition filed by the petitioner is to be allowed as he is the bonafide purchaser of the cattle entitled to its possession thereof."*

5. The learned Sessions Judge based its order primarily on two points. Firstly, the opposite party no. 3 being the admitted owner of the cattle is entitled to interim custody of the cattle. Secondly, the cattle not being further required for the purpose of investigation, the same was directed to be released in favour of the opposite party No.3. The petitioner in the instant case is aggrieved and assailing the order of the Revisional Court dated 01.11.2023.

6. Mr. Sidharth Luthra, learned Senior Counsel appearing for the petitioner submits that the petitioner has obtained the documents from the competent authority which are placed as Annexure-11 series would indicate that the documents produced by the opposite party No.3 to establish the ownership over the cattle are forged documents.

Therefore, the first ground on the basis of which the Revision Petition was allowed is not sustainable on facts. For ready reference, the letter dated 17.10.2023 issued by the District Society for Prevention of Cruelty to Animals, Guntur is reproduced below: -

*“DISTRICT SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS,
GUNTUR*

<i>From</i>	<i>To</i>
<i>Dr. J.P. Venkateswarlu, M.V.Sc.</i>	<i>The Superintendent of Police,</i>
<i>District Animal Husbandry Officer,</i>	<i>Vice-President – II</i>
<i>Hon. Secretary, SPCA,</i>	<i>District Society for Prevention</i>
<i>Guntur.</i>	<i>of Cruelty to Animals,</i>
	<i>Guntur.</i>

Lr. No.132/AHD/2023, Dated : 17-10-2023

Sir,

Sub: Animal Husbandry Department- Guntur District–Random check of cattle trafficking in Baisinga Police Station jurisdiction, Mayurbhanj District, Orissa–Discrepancy in the signatures of the Officers of Animal Husbandry Department, Guntur District- Forgery made in the signatures- Request to make an enquiry in the incidence–Regarding.

Ref: 1. Representation received from Sri Sumant Ojha, Animal Rights Activist, Delhi through mail dated: 11.10.2023.

Vide reference cited above, I submit to inform that a representation was received on 11.10.2023 through mail, stating that random check of cattle trafficking was conducted on 29.09.2023 at Baisinga Police Station jurisdiction, Mayurbhanj District, Orissa by various NGOs which were registered under Animal Welfare Board of India. On 29.09.2023, the NGOs noticed, that vehicles with milking cows were intercepted from Guntur, Andhra Pradesh. The NGO urged to check the validity of the documents through mail on 11.10.2023.

Upon enquiry, it is observed that the signatures made in the certificates by Veterinary Assistant Surgeon, Mangalagiri and Assistant Director (AH), District Livestock Development Agency, Guntur are forged and proved to be fake which is serious violation of the policies and procedures. The abovesaid officials have not issued the said certificates and the matter is to be viewed seriously.

In light of the above circumstances, investigation may be made on the incidence and proper action may be taken against the offenders.

Enclosure: As mentioned above

Yours faithfully,

Sd/-

District Animal Husbandry Officer

Hon. Secretary, SPCA, Guntur.

Copy submitted to

The President, SPCA, Collector & District Magistrate, Guntur.”

7. Perusal of the aforementioned letter indicates that the opposite party no.3 has employed unfair and illegal method to establish the ownership over the cattle by forging the documents. Therefore, the allegation of the prosecution that the cattle were illegally transported by the opposite party no.3 with an object to slaughter them is established from the conduct of the opposite party no.3.

8. Mr. Luthra, learned Senior Counsel further submits that the Revisional Court order is also not tenable under law because there is no consideration applied to the order regarding the object of the Act sought to be achieved while passing the release of the cattle. Mr. Luthra relied upon the judgment of the Bombay High Court in the case of *Ansar Ahmad and others vs. State of Maharashtra, Thru. P.S.O. and another and batch*, reported in *2023 SCC OnLine Bom 1123*. He supplied emphasis on the Para-20 of the said judgment:

“20. It is not out of place to mention that the animals have emotions, feelings and senses similar to a human being. The only difference is that the animals cannot speak and therefore, though their rights are recognized under the law, they cannot assert the same. The rights of the animals, welfare of the animals and protection of the animals has to be taken care of by the concerned in accordance with law. Before the Act of 1960, there was no enactment to deal with the aspects which are now taken care of in the Act of 1960. The Hon'ble Apex Court in the case of Animal Welfare

Board of India v. A. Nagaraja, reported at (2014) 7 SCC 547, has aptly set out the object of the Act of 1960 and the duty of all concerned to implement the same. Paragraph 26 of the said decision is relevant for the purpose of these cases. It is extracted below:—

“26. PCA Act is a welfare legislation which has to be construed bearing in mind the purpose and object of the Act and the Directive Principles of State Policy. It is trite law that, in the matters of welfare legislation, the provisions of law should be liberally construed in favour of the weak and infirm. Court also should be vigilant to see that benefits conferred by such remedial and welfare legislation are not defeated by subtle devices. Court has got the duty that, in every case, where ingenuity is expanded to avoid welfare legislations, to get behind the smoke-screen and discover the true state of affairs. Court can go behind the form and see the substance of the devise for which it has to pierce the veil and examine whether the guidelines or the Regulations are framed so as to achieve some other purpose than the welfare of the animals. Regulations or guidelines, whether statutory or otherwise, if they purport to dilute or defeat the welfare legislation and the constitutional principles, Court should not hesitate to strike them down so as to achieve the ultimate object and purpose of the welfare legislation. Court has also a duty under the doctrine of *parents patriae* to take care of the rights of animals, since they are unable to take care of themselves as against human beings.”

Mr. Luthra submits that in order to achieve the object of PCA Act, the Court directing release of the cattle need to take into consideration the wellbeing of the animals and their protection.

9. To buttress the aforementioned argument, Mr. Luthra, learned Senior Counsel also relied upon the judgment of the Hon'ble Supreme Court in the case of *Animal Welfare Board of India vs. A. Nagaraja and others* reported in (2014) 7 SCC 547. He has supplied emphasis to paragraphs-32, 33, 34 and 35 which are reproduced hereunder:

The PCA Act

“32. The PCA Act was enacted even before the introduction of Part IV-A dealing with the fundamental duties, by the Constitutional (47th Amendment) Act, 1956. Earlier, the then British in India enacted the Prevention of Cruelty to Animals Act, 1890 for the human beings to reap maximum gains by exploiting them with coercive methods with an idea that the very existence of the animals is for the benefit of the human beings. During the course of administering the abovementioned Act, many deficiencies were noticed by the Government of India and a committee was constituted to investigate and suggest measures for prevention of cruelty to animals. Following that, a Bill was introduced in Parliament and, ultimately, the PCA Act, 1960 was enacted so as to prevent the infliction of unnecessary pain or suffering on animals and to amend the law relating to prevention of cruelty to animals.

Judicial evaluation

33. The PCA Act is a welfare legislation which has to be construed bearing in mind the purpose and object of the Act and the directive principles of State policy. It is trite law that, in the matters of welfare legislation, the provisions of law should be liberally construed in favour of the weak and infirm. The court also should be vigilant to see that benefits conferred by such remedial and welfare legislation are not defeated by subtle devices. The court has got the duty that, in every case, where ingenuity is expanded to avoid welfare legislations, to get behind the smokescreen and discover the true state of affairs. The court can go behind the form and see the substance of the device for which it has to pierce the veil and examine whether the guidelines or the regulations are framed so as to achieve some other purpose than the welfare of the animals. Regulations or guidelines, whether statutory or otherwise, if they purport to dilute or defeat the welfare legislation and the constitutional principles, the court should not hesitate to strike them down so as to achieve the ultimate object and purpose of the welfare legislation. The court has also a duty under the doctrine of *parens patriae* to take care of the rights of animals, since they are unable to take care of themselves as against human beings.

34. The PCA Act, as already indicated, was enacted to prevent the infliction of unnecessary pain, suffering or cruelty on animals. Section 3 of the Act deals with duties of persons having charge of animals, which is mandatory in nature and hence confer corresponding rights on animals. Rights so conferred on animals are thus the antithesis of a duty and if those rights are violated, law will enforce those rights with legal sanction. Section 3 is extracted hereunder for an easy reference:

“3. **Duties of persons having charge of animals.**—It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.”

35. Section 3 of the Act has got two limbs, which are as follows:

(i) Duty cast on persons in charge or care to take all reasonable measures to ensure the well-being of the animal;

(ii) Duty to take reasonable measures to prevent the infliction upon such animal of unnecessary pain and suffering.

Both the above limbs have to be cumulatively satisfied. Primary duty on the persons in charge or care of the animal is to ensure the well-being of the animal. "Well-being" means state of being comfortable, healthy or happy. Forcing the bull and keeping the same in the waiting area for a number of hours and subjecting it to scorching sun, is not for the well-being of the animal. Forcing and pulling bulls by nose ropes into the narrow closed enclosure of vadi vasal, subjecting it to all forms of torture, fear, pain and suffering by forcing it to go to the arena and also overpowering it at the arena by the bull tamers, are not for the well-being of the animal. The manner in which the bull tamers are treating the bulls in the arena is evident from the reports filed before this Court by ABWI. Forcing the bull into the vadi vasal and then into the arena, by no stretch of imagination, can be said to be "for the well-being of such animal". Organisers of Jallikattu are depriving the rights guaranteed to the bulls under Section 3 of the PCA Act. Sadism and perversity is writ large in the actions of the organisers of Jallikattu and the event is meant not for the well-being of the animal, but for the pleasure and enjoyment of human beings, particularly the organisers and spectators. Organisers of Jallikattu feel that their bulls have only instrumental value to them, forgetting their intrinsic worth. First limb of Section 3, as already indicated, gives a corresponding right to the animal to ensure its well-being. AWBI, a body established to look after the welfare of the animals has to see that the person in charge or care of the animals looks after their well-being. We have no hesitation to say that Jallikattu/bullock cart race, as such, is not for the well-being of the animal and, by undertaking such events, organisers are clearly violating the first limb of Section 3 of the PCA Act."

Mr. Luthra further relied upon the judgment of the Hon'ble Supreme Court in the case of ***Shri Chatrapati Shivaji Gaushala vs. State of Maharashtra and others***, reported in ***2022 SCC OnLine SC 1402***. He has emphasized paragraphs - 20 & 21 which are reproduced as under: -

"20. The intention of the legislature in incorporating the proviso to Section 8(3) was to give effect to the object of the Maharashtra Act to preserve and protect cows, bulls, and bullocks useful for milch, breeding, draught, or agricultural purposes. The proviso to Section 8(3) of the Maharashtra

Act provides for handing over of the seized cow, bull, or bullock to the nearest gosadan, goshala, pinjrapole, hinsa nivaran sangh or such other animal welfare organization willing to accept such custody. In the present case, the appellant was willing and ready to accept custody of the seized cattle. In light of the prima facie observation that the private respondents were in violation of the Transport of Animal Rules 1978, it was incumbent upon the High Court to ensure that the seized cattle would be properly preserved and maintained until the conclusion of the trial proceedings.

21. The appellant has shown its willingness to accept the interim custody of the cattle. In view of the fact that private respondents were prima facie carrying the cattle in cruel conditions without a valid permit, the JMFC rightly concluded that the cattle would be safe in the custody of the appellant instead of the private respondents. In view of the above findings, the ultimate direction which was issued by the High Court was contrary to the proviso to Section 8(3) of the Maharashtra Act and would have to be set aside, while restoring the order of the JMFC. We order accordingly.”

And by relying upon, ***Raghuram Sharma & Another vs. C. Thulsi & Another*** reported in ***2020 SCC OnLine SC 1325***; ***Meher Banu Begum vs. State of Assam*** reported in ***2021 SCC OnLine Gau 2698***; ***Meher Banu Begum vs. State of Assam*** reported in ***2022 SCC OnLine SC 1894***; ***Jagatguru Sant Tukaram Goshala vs. State of Maharashtra*** reported in ***2022 SCC OnLine SC 1478***, Mr. Luthra, learned Senior Counsel submits that if the accused, consignor, consignee, agents and transporter prima facie found guilty of offence due to transportation of more than 6 cattle in one goods carrier/truck, then the accused/owner are not entitled to get interim custody of cattle. He further contended that, even after conviction the convicts are not entitled to the custody of the cattle under command of Section 29 of the PCA Act. Thus, the argument

that there is no bar to give the interim custody of the cattle to the owner who is facing the prosecution and owner can be deprived of the custody only on his conviction under the PCA Act is not the law operating in the field in view of the judgment as discussed in the preceding paragraphs of this judgment and in view of the object behind the PCA Act.

10. Reverting to the merits of the present case, it is an admitted fact on record that the opposite party no. 3 has been transporting the cattle illegally without taking care and caution regarding the wellbeing of the cattle as a result of which the cattle have received severe injuries. Therefore, the cattle were subjected to cruelty. In this scenario, if the present petitioner has expressed the willingness to take care of the cattle, the application ought to have been allowed. In the instant case, the learned Magistrate has rightly rejected the application of the Opp. Party No.3, whereas the Revisional Court has reversed the order of the learned Magistrate which directly hits the settled principles as enumerated above.


11. Mr. Maharaj, learned Addl. Standing Counsel supported the submissions raised by the learned Senior Counsel appearing for the Petitioner and further submits that the learned Sessions Judge passed the revision order dated 01.11.2023 without considering the welfare

legislation enacted for mute and hapless animals. Even for granting interim custody the paramount consideration is to see that the cattle are safe and they are taken care of well.

12. In the instant case, what is borne out of the record is that on 06.07.2023, the opposite party no.3 was transporting the cattle illegally for which a case under Section-11(1)(d)(e)(f) of the PCA Act, 1960 was registered against him and the cattle as well as the vehicle was seized. It was found that the said opposite party no.3 has tied and dumped the cattle in the offending vehicle without providing them food and water.

13. As required under the PCA Act and Rules neither the health inspection/checkup of the cattle nor proper identification or marking of animals was done through the jurisdictional Veterinary Official. The conduct of the opposite party no.3 and the manner in which the cattle were dealt with could lead to the only inference that the cattle were subjected to cruel treatment in violation of the mandatory provisions of the PCA Act and Rules. The object of the PCA Act as discussed above is definitely offended by the conduct of the opposite party no.3. In the light of the aforementioned facts germinating from the record, the Revisional Court ought to have applied the principle while allowing interim custody of cattle to the opposite party No.3.

14. The Gau Gyan Foundation 'Rudrashram Gaushala' approached this Court by filing **CRLMC No.1192 of 2022**. While dealing with the similar situation in the said case of *Gau Gyan Foundation 'Rudrashram Gaushala' vs. State of Odisha and another* reported in **2023 SCC OnLine Ori 294**, the coordinate Bench in that case observed regarding enquiry to be conducted under Section 29 of the PCA Act and observed as follows:



“12. In the case at hand, opposite party No. 2 claimed himself as the owner of the cattle but was found to be transporting it in a vehicle without proper care and treatment. The impugned order suggests that opposite party No. 2 had produced money receipt to show the purchase of cattle on payment of consideration and also having a dairy farm in support of which submitted its certificate of registration and on ensuring a deposit of Rs. 54,000/-, the animals were released from custody. When the cattle were found to be transported in the vehicle without care and proper treatment, the learned S.D.J.M., Bhadrak should have called for a report or enquired into the profile of opposite party No. 2 as to if he is having past misconduct or conduct of such nature and in case the animals are released in his favour, whether, they would be treated without cruelty, the aspect which was not duly examined and not only that, proper verification and identification of the animals as it seems was not carried out at any time before being handed over to him. The purpose of the PCA Act demands such an exercise to be undertaken not only at the end of trial but presupposes it during pendency of litigation for the purpose of interim release. The spirit of the PCA Act and the objective of the law shall have to be understood and appreciated in its proper perspective, at all stages of the proceeding, otherwise, any such custody during the pendency of the litigation could further cause cruelty to the animals which would certainly frustrate the purpose for which it is enacted.”

Keeping in view, the welfare of the cattle aforementioned observation was made by the Court and issued slew of directions.

15. Confronted with the similar situation, the Hon'ble High Court for the State of Telengana by taking note of various judgments have passed a judgment, on 01.03.2017, in **Criminal Revision Case No.517 of 2017, Ramavath Hanuma @Hanumanthu vs. State of Telengana** reported in **2017 SCC OnLine HYD 191**, and observed in para- 27 as follows:

"27) In Narad Joshi v. State of Uttarakhand the High Court of Uttarakhand while dismissing the interim custody of the cattle to the owners, it was held relying upon the judgments of the High Courts of Andhra Pradesh and Madhya Pradesh and of the Apex Court observed as follows:

"The judgment rendered by Hon'ble Madhya Pradesh High Court in Secretary, Gopal Goshala Jhonkar v. Ramesh and others reported in 2009 (4) MPHT182 decided on 28.11.2008 and the judgment rendered by Hon'ble Andhra Pradesh High Court in Mohd. Moinuddin v. State of Andhra Pradesh delivered on 07.07.2010 in Criminal Revision Case no. 1181 of 2010 that were referred in the unreported judgment of the Hon'ble Apex Court in State of Uttar Pradesh v. Mustakeem and others in Criminal Appeal no. 283-287 of 2002, wherein the Hon'ble Apex Court held as follows:-

"The State of Uttar Pradesh is in appeal against the direction of the Court directing release of the animals in favour of the owner. It is alleged that while those animals were transported for the purpose of being slaughtered, an FIR was registered for alleged violation of the provisions of Prevention of Cruelty to Animals Act, 1960, and the specific allegation in the FIR was that the animals were transported for being slaughtered, and the animals were tied very tightly to each other. The criminal case is still pending. On an appeal for getting the custody of the animals being filed, the impugned order has been passed. We are shocked as to how such an order could be passed by the learned Judge of the High Court in view of the very allegations and in view of the charges, which the accused may face in the criminal trial. We, therefore, set aside the impugned order and direct that these animals be kept in the Gowshala and the State Government undertakes to take the entire responsibility of the preservation of those animals so long as the matter is under trial. The appeals stand disposed of accordingly." The High Court observed therefrom that the facts of the instant case are identical to the case of Mustakeem's case (supra). The criminal trial against the respondents (Saleem and Bilal) is pending adjudication before learned Magistrate. They have been charge-sheeted not only in respect of the Prevention of Cruelty to Animals Act, 1960, but also for violation of the Uttarakhand Protection of Cow Progeny Act, 2007, as also under Section

429 Indian Penal Code. Judging from the above yardstick, this Court is of the opinion that accused respondents are not entitled to the interim custody of seized cattle”.

16. On the touch stone of the spirit and objective of the PCA Act and various pronouncements, few of which have been discussed above, every case needs to be dealt with on its own facts. If in a given case the facts are glaring from the record that the cattle were being transported in violation of the provisions of Rule 56(c) of the Transport of Animals Rules, 1978 and health certificate was not issued by Veterinary Department in terms of the provision of Rule 47(a) of the Transport of Animals Rules, there is no question of giving even interim custody to such owner even from the very reading of Section 29 of the PCA Act. Chance of further cruelty likely to be caused to the cattle if given to the perpetrator of law cannot be ruled out, rather in the fitness of things even interim custody should be entrusted to a neutral body, which can protect and preserve the cattle in safe. After final disposal of the case, the trial court shall pass appropriate orders regarding disposal or custody or confiscation of the cattle, vehicle etc. as the case may be in accordance with law.

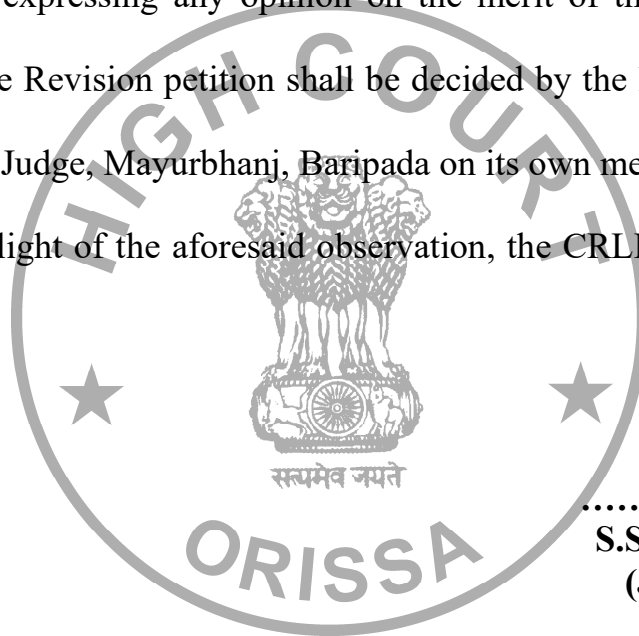
17. In the present case, the Revisional Court has reversed the order of the learned J.M.F.C.1 (Cog. Taking), Baripada and gave the interim custody of the cattle despite the cattle were subjected to cruelty by the opposite party no.3, since he claimed to be the owner of the cattle. The Court below has failed to appreciate the conduct of the opposite party no.3 that fake documents have been produced by him to establish his ownership and the court has also not applied the principle enumerated by various judgments of the Hon'ble Supreme Court and the other High Courts as mentioned above to the present case while allowing interim custody of cattle. Learned Court below has also not taken into consideration the object of the PCA Act and its Rules as well, while passing the impugned order. Therefore, the order passed by the Revisional Court lacks merit.

18. While considering the case of the present petitioner in the spirit of the object of the Act and by evaluating the facts scenario of the present case, this Court is of the prima facie view that in the interest and for the wellbeing of the cattle, the petitioner may have a superior right over the opposite party no.3 for getting interim zimma of the cattle.

19. Accordingly, the order dated 01.11.2023 passed by the learned District and Sessions Judge, Mayurbhanj, Baripada in Criminal Revision

No.28 of 2023 is set aside and the matter is remanded back to the same Court to decide the revision petition afresh in the light of the observation made in this judgment and in view of the fact that the petitioner has discovered various documents subsequent to the passing of the impugned order, which allegedly establishes that the opposite party No.3 is not the owner of the cattle. However, it is made clear that this Court is not expressing any opinion on the merit of the present case. Therefore, the Revision petition shall be decided by the learned District and Sessions Judge, Mayurbhanj, Baripada on its own merit afresh.

20. In the light of the aforesaid observation, the CRLMC is disposed of.



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S.S. Mishra
(Judge)

*Orissa High Court, Cuttack,
Dated the 16 April, 2024/Subhasis/P.A*

Signature Not Verified

Digitally Signed
Signed by: SUBHASIS MOHANTY
Designation: P.A.
Reason: Authentication
Location: High Court of Orissa, Cuttack.
Date: 23-Apr-2024 13:43:48

