

**DR. A.K.JAYASANKARAN NAMBIAR
&
GOPINATH P., JJ.**

WP (C).No.13204 of 2021

Dated this the 12th day of February, 2024

ORDER

Dr. A.K. Jayasankaran Nambiar, J.

Yet another instance of human-animal conflict has been reported from Mananthavady in Wayanad District. This time around, a middle-aged man was attacked and killed by a wild elephant in the precincts of his residential house. We are given to understand that the elephant in question is one that was radio-collared by the wildlife officials in the neighbouring State of Karnataka pursuant to its repeated forays into human settlements there.

2. We have convened this special session today because we are rather concerned about the pace at which the State Government has chosen to act in the matter of setting up infrastructural facilities for preventing such conflict situations in the area. As early as on 29.03.2023, while dealing with a conflict situation involving another elephant, we had constituted a Committee of Experts (CoE) to advise this Court in matters of Human-Elephant conflict situations in the State. By another order dated 25.05.2023 we had also fixed the Terms of Reference to the said Committee as under:

1. Identify and Map human wildlife conflict areas in Kerala including species involved, nature and intensity of conflict, seasonality etc.

2. Evolve ways and means to ascertain and address peoples' grievances arising due to human wildlife interactions.

3. Identify areas that require Habitat Connectivity, Consolidation, Ecological Restoration and improvement in quality of habitats and suggest measures for achieving the same.

4. Prepare strategic action plans suggesting site specific short-term and long term measures to mitigate human wildlife conflict in the State.

5. Monitor the functioning of the Task Forces constituted by orders dated 5.4.2023 and 19.4.2023.

6. Such other issues as may be referred to the Committee from time to time by the High Court.

3. We are told that although the CoE has been convening and holding meetings, they have not been receiving the required assistance from the State Executive. It is perhaps on account of this lethargy that we continue to witness such tragic incidents in our State. We are of the firm view that this sorry state of affairs cannot be allowed to continue. The residents of those districts in this State that border forest areas cannot be made to live in perpetual fear of animal attack on their person or property. Asking them to wait any longer for a reprieve

through state action would tantamount to making a mockery of their fundamental right to life and livelihood. We therefore issue the following direction that will have to be positively complied within the time line indicated.

- The Additional Chief Secretary, General Administration Department, Government of Kerala shall within ten days (on or before 23.02.2024) submit a plan detailing the immediate short term steps that will be taken to prevent the straying of wild animals into human settlements in Wayanad District. The short term plan should be one that will be implemented within a month thereafter, and will be in addition to the long term measures suggested by the CoE that will be implemented simultaneously in a phased manner.

4. Before parting, we might only add that we were told that the tragic incident of 10th February,2024 at Wayanad was occasioned on account of the non-receipt of timely information regarding the location of the elephant, from the forest officials in Karnataka. While we do not have any material to ascertain the veracity of the said allegation, we feel that perhaps it would be in the best interests of all the State Governments concerned Viz. The State Governments of Kerala, Tamil Nadu and Karnataka to engage in dialogues and arrive at an agreement for mutual co-operation in the matter of resolving human-animal

conflict situations. State borders exist only for the human population and not for the animals who roam freely through the forests adjacent to human settlements in all the three States. The hapless human victims of such conflicts, however, suffer alike, whether they are situated within the geographical bounds of one or the other State. The protection of the fundamental rights of the citizens of this country is the constitutionally mandated responsibility of the State, by which term is meant the collective union of all the States and Union Territories in the country. This is the spirit of Art.1 of our Constitution that declares "India, that is Bharat, shall be a Union of States". A purposive co-operation among the states, for fulfilling the constitutional guarantees afforded to the citizens of this country, irrespective of where they reside, is not a matter falling within the discretion of any particular State but rather, a matter that calls for the discharge by a State of its constitutional obligations.

5. While it would be improper on our part, as a co-ordinate arm of the Government, to issue any directions in this regard, we sincerely hope that the State Executive in the States of Kerala, Tamil Nadu and Karnataka would reflect upon our observations and arrive at a mutually acceptable agreement for co-operation in the matter of human-animal conflict resolution. Towards this end, the Registry of this Court is directed to send a copy of this order to the Chief Secretaries for the

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State Governments of Kerala, Karnataka and Tamil Nadu for their attention and appropriate action.

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

**Sd/-
GOPINATH P.
JUDGE**

prp