

In Re: Sundara Nadar

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Court : Chennai

Decided On : Aug-20-1952

Reported in : AIR1953Mad142; (1952)2MLJ748

Judge : Ramaswami, J.

Acts : [Constitution of India](#) - Article 19(1); [Explosives Act, 1884](#)

Appeal No. : Criminal Misc. Petn. No. 1345 of 1952

Appellant : In Re: Sundara Nadar

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : A.K. Annaswami Aiyar, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Ramaswami, J.

1. This is an application under Article 228 of the [Constitution of India](#) for withdrawing C.C. No. 1419 of 1951 on the file of the City First Class Magistrate's Court, Madurai, to the High Court.

2. The facts are: On 24th October 1951 on information received, premises bearing door No. 3, Veerabhadra Aiyar Lane, South Veli Street, Madurai, was searched after complying with the formalities prescribed by law. The third and fourth accused are living in door No. 3 and the first and second accused were found manufacturing explosives and on searching the premises articles which are obviously and exclusively required for the manufacture of explosives and components of explosive substances were found. These four persons have been charged, the first and the second for the manufacturing and the third and fourth accused for allowing 1 and 2 to manufacture explosives such as fire-works, crackers etc. in a residential locality without any licence or permit. I may add for the completeness of information that there is no dispute that these persons have no permit.

3. The point taken now is that in charging these persons there has been infringement of fundamental rights given to citizens under clauses (f) and (g) of Article 19(1) of the [Constitution of India](#).

4. Article 19(1), Clauses (f) and (g) state that all citizens shall have the right to acquire, hold and dispose of property and to practise any profession, or to carry on any occupation, trade or business.

5. The point for consideration is whether the present case involves a substantial question of law?

6. There is no substantial question of law involved as .would compel the High Court to withdraw the case. It is no doubt true that under the [Constitution of India](#) any citizen has the right to acquire, hold and dispose of property in any place to which he goes or in which he resides and that place maybe anywhere within the Indian Union and that the expression 'property' includes every interest one may have in any and everything that is the subject of ownership by man together with right to freely possess, enjoy and dispose of the same: -- 'Metropolitan Trust Co. v. Jones', 149 ALR 1416. It is also quite true that the right of every citizen to practice any profession or to carry on any occupation, trade or business is guaranteed under the next clause. But it is also equally obvious that these freedoms are subject to the same conditions and restrictions as the freedom vouchsafed under

the other clauses of Article 19, viz., that restrictions may be imposed upon the use of the property or in practising one's profession, trade, etc. in promotion of the public welfare, convenience, health and general prosperity. That explosives should not be manufactured and that explosive substances should not be stocked except under conditions which would not be detrimental to the public safety, health, and convenience requires no expatiation whatsoever. Therefore, the restrictions imposed on the acquisition, holding and disposal of property, that is to say: explosives and explosive substances and the right to practise one's profession, trade etc., in manufacturing explosives are restrictions permissible under Clause (6) of Article 19 of the Constitution. Consequently, it cannot be stated at all that the Explosives Act is 'ultra vires' of the Constitution and cannot be justified under the proviso in Article 19(6) of the Constitution.

7. On coming to the conclusion that the Explosives Act does not constitute a violation of the freedom guaranteed under clauses (f) and (g) of Article 19(1) of the [Constitution of India](#) there are no reasons whatsoever to withdraw C.C. No. 1419 of 1951 on the file of the City First Class Magistrate's Court, Madurai, to the High Court. This criminal miscellaneous petition is hereby dismissed and the lower court is directed to get along expeditiously with the disposal of the case which under the device of this petition has been getting protracted.

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