

Devashesh Singh Vs. State of U.P

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Court : Allahabad

Decided On : Oct-05-2012

Judge : Sudhir Kumar Saxena

Appeal No. : U/S 482/378/407 No. 2891 of 2012

Appellant : Devashesh Singh

Respondent : State of U.P

Judgement :

1. THIS petition has been filed challenging the order dated 26.06.2012 passed by Additional Sessions Judge, Court no. 2, Ambedkar Nagar and for a direction for releasing the wheat and rice.

2. FROM the record, it appears that Marketing Inspector, Ashutosh Kumar Singh has lodged a report against the petitioner, Devashesh Singh and others under Section 3/7 of the Essential Commodities Act. Consequently, case was registered under Section 3/7 of the Essential Commodities Act on 12.06.2011 bearing Case Crime No. 359 of 2011 at police station Akbarpur, District Ambedkar Nagar. 384 bags of wheat and 350 bags of rice were seized by the Marketing Officer. An application filed by the petitioner before the Chief Judicial Magistrate for releasing the wheat and rice was rejected against which revision was filed. The revision has been allowed by Additional Sessions Judge, Court No. 2, Ambedkar Nagar on 02.05.2012 and the revisional court directed to release the wheat and rice on

executing a personal bond of Rs. 1 lakh as well as giving undertaking that he will not sell the same and preserve during trial. It appears that this order passed by the trial court was not complied with despite application moved by the petitioner on 05.05.2012, whereupon Chief Judicial Magistrate, Ambedkar Nagar vide order dated 16.06.2012 directed the Marketing Officer to comply with the order dated 02.05.2012 passed by Sessions Judge for releasing the goods.

Goods were still not released as such, feeling desperate a misc. application was filed before Additional Sessions Judge for ensuring compliance of order dated 02.05.2012. In this application, District Food and Marketing Officer filed objection to the effect that demanded security is inadequate and proper security according to value of goods be taken. This application has been disposed of on 26.06.2012 by the Additional Sessions Judge, permitting the District Marketing Officer to submit proper report before District Magistrate under the Essential Commodities Act. It further appears that on 13.08.2012, proceedings under Section 6-A have been initiated.

District Food and Marketing Officer, Sri Chandrashekher Ojha, is present before this Court. He states that he has already moved an application before the Sessions Judge for releasing the goods but on adequate security as personal bond of Rs. 1 lakh was inadequate. Order for releasing the wheat and rice is still operating. It has not been challenged by authorities anywhere. This order has to be implemented albeit on adequate security as prayed by District Food and Marketing Officer.

3. IN the circumstances of the case, Ms. Nand Prabha Shukla, learned AGA states that in view of the application dated 22.06.2012 filed by District Food and Marketing Officer for releasing the goods on executing a surety of Rs. 5 lakhs each, goods may be released. District Food and Marketing Officer does not have any objection, if goods are released on the above conditions. Petitioner's counsel Sri Jitendra Pratap Singh has agreed to furnish the sureties, demanded by the respondent.

In view of the above, I direct Chief Judicial Magistrate, Ambedkar Nagar to pass fresh order for releasing wheat and rice seized in Case Crime No. 359 of 2011,

under Section 3/7 of Essential Commodities Act on applicant executing a personal bond to the tune of Rs. 1 lakh and two sureties each in the amount of Rs. 5 lakhs to his satisfaction. Respondent will ensure compliance immediately. With the aforesaid directions, petition is disposed of.

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