

Yakoob Vs. The District Revenue Officer, Dindigul District and Another

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Court : Chennai Madurai

Decided On : Aug-05-2016

Judge : M. Venugopal

Appeal No. : W.P(MD)No. 14177 of 2016

Appellant : Yakoob

Respondent : The District Revenue Officer, Dindigul District and Another

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to release the lorry bearing Registration No.KA-12-A-2316 seized by the second respondent on 27.6.2016 to the Petitioner.)

Heard both sides.

2. By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents 1 and 2.

4. According to the Petitioner, he is the owner of the lorry bearing Registration No. No.KA-12-A-2316 and that the Second Respondent/The Inspector of Police, Civil Supplies Department, Dindigul had seized his vehicle on the allegation that the

vehicle in question was used to transport 187 bags of PDS Rice(each containing 50 Kgms of rice). After seizure of the vehicle, the Second Respondent registered a case against the Petitioner and nine others, in Crime No.146 of 2016, for the offence alleged under Clause 6(4) of TNSC(RDCS) Order, 1982 r/w 7(i)(a)(ii) of the Essential Commodities Act, 1955 and produced the vehicle before the First Respondent. In this connection, the Petitioner had sent a detailed representation to the First Respondent on 5.7.2016(after seizure of the vehicle) seeking for release of the vehicle in question. However, the vehicle has not been released till date.

5. The grievance of the Petitioner is that if the vehicle is exposed to hot sun and rain and also when it is kept in open yard, it will lose its value. Hence the Petitioner has filed the present Writ Petition for the relief cited supra.

6. Considering the fact that the Petitioner's vehicle bearing Registration No..KA-12-A-2316 is not yet released by the First Respondent, at this stage, this Court following the order passed in W.P.(MD)No.14224 of 2013 between K.Gangadaran vs. (i) the District Collector, Coimbatore District and another, whereby and where-under at paragraphs-8 to 10, it is observed and laid down as under:

8. In the instant case, the petitioner is said to have submitted his representation dated 02.05.2013 addressed to the second respondent praying for handing over of the pick up Mini Van bearing Registration No.KL 9 AD 3334 in question.

9. One cannot ignore an important fact that a Judicial Magistrate can pass an order under Section 451 of Cr.P.C. Only after physical or symbolical production of seized material before the Court and that too only after hearing both sides. It cannot be gainsaid that such an order is final as between the parties. A party affected by such an order is entitled to file a Revision before the Competent Forum. For disposal of property under Section 451 of Cr.P.C., it is necessary that the property should be in the control of Magistrate. The orders to be passed by the competent Judicial Magistrate are under Sections 451 and 457 of Cr.P.C., which are during the pendency of trial or enquiry.

10. Be that as it may and taking note of the fact that the seized vehicle cannot be kept either in the Police Station or within a precincts of R.D.O.'s Office etc., and also bearing in mind an important fact that such keeping of seized vehicle for a long time will be detriment to the interest of the petitioner, this Court, in the interest of justice, directs the first respondent to release the Ashok Leyland Mini Pick up Van bearing Registration No.KL 9 AD 3334, subject to the petitioner fulfilling the following conditions:-

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in cash before the first respondent;

(b) The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicle;

(c) The petitioner is to file an affidavit of undertaking that he will cause production of the vehicle in question before the competent/concerned respondents (as the case may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(d) On compliance of the above conditions, the first respondent is directed to release the seized vehicle bearing registration No.KL 9 AD 3334 to the petitioner (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(e) The first respondent is directed to pass final orders in the adjudication proceedings within a period of 45 days;

(f) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law and in accordance with law; and

(g) Inasmuch as the Vehicle Ashok Leyland Mini Pick up Van bearing Registration No.KL 9 AD 3334 is seized by the second respondent on 25.04.2013, the above

order is to be complied with, within three days, if no order of adjudication is passed or confiscation is passed on as today.

7. Following the said order, this Court directs the First Respondent to release the Lorry bearing Registration No.KA-12-A/2316, subject to the following conditions:

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in cash before the first respondent;

(b) The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicle;

(c) The petitioner is to file an affidavit of undertaking that he will cause production of the vehicle in question before the competent/concerned respondents (as the case may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(d) On compliance of the above conditions, the first respondent is directed to release the seized vehicle(Lorry) bearing registration No.KA-12-A/2316, to the petitioner (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(e) The first respondent is directed to pass final orders in the adjudication proceedings within a period of 45 days;

(f) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law and in accordance with law; and

(g) Inasmuch as the Vehicle(Lorry) bearing Registration No.KA-12-A/2316,is seized by the Second Respondent on 27.06.2016, the above order is to be complied with within a period of one week, if no order of adjudication is passed as on today.

8. With the aforesaid direction(s), the Writ Petition stands disposed of. No costs.

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