

Muthoot Finance Limited Vs. The State Of Karnataka

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Court : Karnataka

Decided On : Dec-31-2024

Judge : SURAJ GOVINDARAJ

Appeal No. : WP 36201/2024

Appellant : Muthoot Finance Limited

Respondent : The State Of Karnataka

Judgement :

- 1 - NC:

2024. KHC:53354 WP No.36201 of 2024 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE31T DAY OF DECEMBER, 2024 BEFORE THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ WRIT PETITION No.36201 OF2024(GM-POLICE) BETWEEN: MUTHOOT FINANCE LIMITED A COMPANY INCORPORATED UNDER THE COMPANIES ACT1956HEAD OFFICE AT: MUTHOOT CHAMBERS OPP: SARITHA THATRE COMPLEX BANERJEE ROAD, KOCHI-682018 HAVING ONE OF ITS BRANCH AT NO.91/2 RENUKA YELLAMAMA BUILDING ABOVE ICICI BANK, 1ST FLOOR BAGUR MAIN ROAD HONGASANDRA, BANGALORE-560063 REP. BY ITS AUTHORIZED OFFICER SRI.AJUMON P.GEORGE PETITIONER (BY SRI. ANISH JOSE ANTONY., ADVOCATE) AND:

1. THE STATE OF KARNATAKA BY ITS SECRETARY HOME DEPARTMENT VIDHANA SOUDHA BENGALURU-560 001 2. THE STATION HOUSE OFFICER/ POLICE SUB-INSPECTOR BEGUR POLICE STATION BENGALURU KARNATAKA-560 079 RESPONDENTS (BY SRI.MOHAMMED JAFFAR SHAH., AGA) - 2 - NC:

2024. KHC:53354 WP No.36201 of 2024 THIS WP IS FILED UNDER ARTICLES226AND227OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE INTERFERENCE BY THE RESPONDENTS IN PETITIONERS BUSINESS FOR FORCEFULLY SEIZING THE GOLD ARTICLES PLEDGED BY IT COSTUMERS IS ARBITRARY AND IS IN VIOLATION OF FUNDAMENTAL RIGHTS GUARANTEED UNDER ARTICLE14AND191)(G) OF THE CONSTITUTION OF INDIA IN THE INTEREST OF JUSTICE AND EQUITY AND ETC. THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY,

ORDER

WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ ORAL

ORDER

1 The petitioner is before this Court seeking for the following reliefs: a) Declare that the interference by the Respondents in petitioners business for forcefully seizing the gold articles pledged by it costumers is arbitrary and is in violation of fundamental rights guaranteed under articles 14 and 19(1)(g) of the constitution of India in the interest of justice and equity. b) Issue a writ of mandamus or any other appropriate writ, order or direction to be issued to the Respondents to not seize the gold articles from the petitioner but can only

examine the same by summoning it for the purpose of investigation in Crime No.414/2024 registered by th R2, in the interest of justice and equity. c) Issue a writ of certiorari for call for the records of the Annexure-C notices issued by the R2 to the petitioner dated 30.12.2024 and quash the same and all consequential actions taken against the petitioner thereafter, interest of justice and equity. d) And grant such other relief or directions as this Honble Court deems fit the facts and circumstances of the case.-. 3 - NC:

2024. KHC:53354 WP No.36201 of 2024 2. Learned AGA is directed to accept notice for respondents No.1 and 2.

3. The order being challenged is a notice issued by respondent No.2 Station House Officer to make available certain gold articles said to be in the custody of the Petitioner which are claimed to have been stolen and pledged with the petitioner.

4. Sri.Anish Jose Antony, learned counsel for the petitioner would submit that the petitioner would co- operate with the investigation but would have to retain the gold which had been pledged with the petitioner since the petitioner has a right over the same being a Pledgee/pawnee.

5. He submits that there is a right vested with the petitioner on account of the pledge of the said gold as a security and that security cannot be taken away on the ground that the gold is stolen, the ownership of the gold would have to be established by the person claiming it by way of an appropriately instituted civil suit.-. 4 - NC:

2024. KHC:53354 WP No.36201 of 2024 6. Having considered the above submission and having perused the papers, Iam of the considered opinion that the petitioner being only a pledgee/ pawnee would have a only right that the pledgers/pawner has in the said gold and the petitioner cannot claim any right more than that.

7. During investigation, the Investigating Officer would be required to ascertain various aspects including the ownership of the said gold and it is for the Court seized of the matter to decide as to in whose favour the gold has to be returned, if an application under Section 454 of the earlier Code of Criminal Procedure and now Section 500 of the BNSS were to be filed. Of course, at that time the petitioner can always place its rights and claims before the said Court for being decided. The true owner of the gold cannot be deprived of the use of the gold, merely because the same is pledged with a gold finance company after being stolen from such true owner. The Gold Finance Company is vested with a duty to carry out proper - 5 - NC:

2024. KHC:53354 WP No.36201 of 2024 due diligence before accepting the gold as a pledge for a loan disbursed.

8. There are innumerable matters coming up before this court where stolen gold is pledged with a gold finance company. Iam of the considered opinion that this aspect would have to be examined by the concerned authorities and proper guidelines have to be formulated in relation to such pledging of gold, ascertainment of ownership, identity of the person pledging the gold, implication of pledging stolen gold, manner of dealing with such gold when criminal proceedings are taken up etc., etc.,. Therefore, I request the Law Commission, Karnataka to look into this matter and formulate necessary guidelines/rules or the like as deemed fit.

9. In that view of the matter, directing the petitioner to co-operate with the Investigating Officer and make available all the details relating to the pledge as also permit the inspection of the gold, which if required the Investigation Officer can take receipt of and - 6 - NC:

2024. KHC:53354 WP No.36201 of 2024 deposit with the Court seized of the matter, on coming to the conclusion that the said gold is stolen, it is made clear that the police officer cannot retain the gold in his possession, but would have to deposit the same with the court seized of the matter. The court seized of the matter while considering any application for release of the gold or at the time when the court were to pass an order of release for any reason whatsoever, would have to issue notice to the Petitioner and afford an

opportunity of hearing to the petitioner before ordering the release. With the above observations, the writ petition stands disposed of.

10. Registrar (Judicial) is directed to forward a copy of this order to the Chairman, Karnataka Law Commission. SD/- (SURAJ GOVINDARAJ) JUDGE SR List No.:

3. SI No.:

2.

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