

Meghanada Sahoo and ors. Vs. Union of India (Uoi) and ors.

Meghanada Sahoo and ors. Vs. Union of India (Uoi) and ors.

SooperKanoon Citation : sooperkanoon.com/526273

Court : Orissa

Decided On : Jan-17-2006

Reported in : 101(2006)CLT451

Judge : A.S. Naidu, J.

Acts : Orissa Agricultural Produce Markets Act, 1956; Essential Commodities Act - Sections 6A

Appeal No. : W.P.(C) Nos. 2561, 2562, 2563, 2564, 2565, 2566 and 2567/2005

Appellant : Meghanada Sahoo and ors.

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : A.S.G.,; A.G.A. and; P. Mohanty and;

Advocate for Pet/Ap. : D.P. Dhal, Adv.

Judgement :

A.S. Naidu, J.

1. In all these Writ Petitions the petitioners pray to issue a Writ of Mandamus directing the Opp, Parties to release the paddy seized from them respectively by the Tahsildar, Lakhanpur, Opp. Party No. 3, vide seizure-list dated 21.2.2005, Annexure-2 in the respective Writ Petitions. As the facts and points of law involved

are same, all the Writ Petitions are disposed of by this common judgment.

2. The petitioners assert that they are farmers and they possess their own lands. In support of such statement they rely upon the identity cards issued by the Tahsildar, vide Annexure-1. With much difficulty they had grown paddy in their lands and after harvesting for selling the same at the best price petitioner Nos. 2 to 7 had been to their nearby village Singharpur, which is the village of Petitioner No. 1. While all the petitioners were negotiating to sell their paddy, Opp. Party No. 3 Tahsildar conducted a raid and seized their entire paddy, vide the seizure-lists respectively Annexure-2 to the Writ Petitions. According to the petitioners the Tahsildar never disclosed the reason for such seizure nor the provision under which he was exercising the power to make the seizure. In the seizure-list Annexure-2 the ground of seizure was stated to be 'Sale of paddy through middleman suspected'. It is further asserted by the petitioners that on the basis of applications filed by them before the concerned authority, the latter released their vehicles, but then did not release the seized paddy. The petitioners assail the said seizure mainly on the ground that the entire exercise culminating in seizure of their paddy had been made on the basis of mere surmises and conjectures of the Tahasildar and not in consonance with any Act or Rules and the Opp. Parties having no authority to make such seizure under the Orissa Agricultural Produce Markets Act, 1956, had exceeded their jurisdiction.

Relying on Annexure-1, respectively the identity cards issued in favour of the petitioners by the competent authority, they assert that they are cultivators and have every right to cultivate and grow paddy and other crops on their lands and nothing prohibits them from doing that.

3. After receiving the Rule of this Court, a counter-affidavit has been filed on behalf of Opp. Parties 2&3 stating that the Tahsildar Opp. Party No. 3 has effected the alleged seizure of paddy as per instructions of the Sub-Collector exercising jurisdiction over the place in question and in the capacity of Chairman of the Regional Marketing Committee of Jharsuguda. In Para 6 of the said counter affidavit the ground of alleged seizure is stated to be 'sale of paddy through middleman at a price lower than the minimum support price, thus leading to

distress sale'. It has further been stated in the counter affidavit that there was no mala fide, ex facie, behind the seizure and the paddy in question was seized from village Singharpur where the same had been gathered although the market yard was located at Lakhanpur village. It has been further stated that the villages of the petitioners (Nos. 2 to 7) were nearer to village Lakhanpur, and their stacking the paddy at Singharpur created suspicion. It is also stated that the seized paddy has already been sold and the price thereof has been deposited in Government treasury. According to these Opp. Parties as the petitioners were middlemen and the negotiation by them amounted to distress sale, the authorities had the right to seize the paddy in question.

4. A rejoinder affidavit has been filed by the petitioners countenancing the averments made in the counter-affidavit.

An additional affidavit has also been filed on behalf of aforesaid Opp. Parties 2 & 3 asserting therein that proceedings under Section 6-A of the Essential Commodities Act have been initiated against the petitioners and it is open to the petitioners to make their submission in the said proceedings.

5. I have heard Learned Counsel for the parties at length and have perused the materials on record. The identity card as per respective Annexure-1 to the Writ Petitions reveals that the petitioners were farmers. No material has been produced before this Court by the Opp. Parties to show that in fact the petitioners were acting as middlemen in selling the paddy in question. There is also no material on record which would reveal that the paddy seized belonged to anybody else other than the petitioners. That apart, no third party has put forth his claim with regard to the paddy seized. In absence of such materials, it cannot be said that the petitioners were acting as middlemen and the paddy was kept for distress sale. As cultivators the petitioners had the right to sell their own paddy at the best rate that could fetch. No authority can prohibit them from selling their produce at a price they agree. In the present case there is also no material to show that the seized paddy was being negotiated to be sold at a price lower than the price fixed by the State Government.

6. After going through the entire materials on record and perusing the averments/pleadings of the respective parties, this Court is satisfied that the seizures as per Annexure-2 respectively suspecting that the petitioners were middlemen were not done in consonance with law, but on the basis of surmises and conjectures. This Court has therefore no hesitation to quash the seizures in question as well as the proceedings initiated against the petitioners under the Essential Commodities Act. The Opp. Parties are directed to pay the price of the quantity of paddy seized to the respective Writ Petitioners as per the sale proceeds.

All the Writ Petitions are disposed of .

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com