

The District Collector, Vs. Abdul Kasim S/O Muhammad

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Court : Kerala

Decided On : Dec-04-2009

Judge : S.R. Bannurmath, C.J. and; A.K. Basheer, J.

Acts : [Kerala Protection of River Banks and Regulation of Removal of Sand Act, 2001](#); ;Kerala Abkari (Disposal of Confiscated Articles) Rules, 1996 - Rule 4

Appeal No. : WA. No. 2578 of 2009

Appellant : The District Collector, ;The Tahsildar, ;The Sub Inspector of Police and the State of Kerala

Respondent : Abdul Kasim S/O Muhammad

Advocate for Def. : P.M. Ziraj, Adv.

Advocate for Pet/Ap. : Government Pleader

Judgement :

A.K. Basheer, J.

1. This appeal, which is at the instance of the State is directed against an interim order passed by a learned Single Judge in W.P.(C) No. 18671 OF 2009.
2. By the impugned order the learned Single Judge has directed the appellants to release respondent's vehicle on depositing a sum of Rs. 25,000/-, if the said

amount had not already been deposited by him pursuant to the order passed by the District Collector.

3. Sri. Ranjith Thampan, learned Additional Advocate General submits that the learned Single Judge ought to have imposed more stringent conditions while releasing vehicles involved in illegal transportation of sand, in order to ensure that such interim orders work as deterrents especially since degradation of bio-diversity is involved in such offence. He invites our attention to the judgments of the Apex Court in this regard.

4. Having heard learned Additional Advocate General and learned Counsel for the respondent we are of the view that, the interim order passed by the learned Single Judge can be modified to some extent.

5. It is brought to our notice that the vehicle has been valued at Rs. 1,00,000/- and the respondent has deposited a sum of Rs. 25,000/- before the District Collector way back in March 2009, as a condition for interim custody as directed by the District Collector. However, the vehicle was not released for nearly three months. Ultimately, the District Collector, at the teeth of contempt proceedings, passed a final order ordering confiscation of the vehicle. It was at that stage the present Writ Petition was filed by the respondent. The learned Single Judge, after considering the entire aspects of the matter, has passed the impugned order indicated above.

6. Having regard to the peculiar facts and circumstances of the case we are of the view that, the interim order passed by the learned Single Judge may be modified slightly. Therefore, it is directed that the respondent's vehicle, bearing registration No. KL 10-C-2689, shall be released to him on his depositing a sum of Rs. 25,000/-(Rupees twenty five thousand only) in addition to the amount of Rs. 25,000/- which is already in deposit and also on executing a bond for the balance sum of Rs. 50,000/- with two solvent sureties in the like sum undertaking to produce the vehicle as and when directed. The sureties shall produce current basic tax receipt or such other document in respect of the property evidencing non-encumbrance.

7. Having regard to the fact that large number of cases involving illegal transportation of sand in violation of the provisions contained in Kerala Protection of River Banks & Regulation of Removal of Sand Act, 2001 we are of the view that following guidelines/directions have to be issued with regard to the release of vehicles that may be involved in such cases.

i. The vehicle shall be released to the registered owner on his depositing half of the total value of the vehicle as may be assessed by the Assistant Executive Engineer(Mechanical), PWD as provided under Rule 4 of the Kerala Abkari (Disposal of Confiscated Articles) Rules, 1996 or the Assistant Motor Vehicles Inspector.

ii. The registered owner shall execute a bond furnishing security for the balance amount to the satisfaction of the District Collector concerned. He shall further undertake to produce the vehicle as and when directed and also not to transfer/alienate the vehicle pending the proceedings. It shall also be undertaken by the registered owner that he will not cause any damage to the vehicle so as to reduce its value and utility.

iii. If the vehicle gets involved in a similar offence after such release, it shall be liable to immediate seizure, in which event it shall not be released until finalisation of the proceedings.

8. We make it clear that the above guidelines/directions are not exhaustive. They are only intended to ensure that adequate measures are taken to prevent recurrence of such offences under the Act.

9. The Writ Appeal is disposed of as above.