

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.37767 OF 2012

DATED:24-6-2015

Between:

T. Venkatramana @ Sivala Venkataramana
... Petitioner

And

The Collector (Civil Supplies)
Chittoor District, Chittoor
and others
... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Chetluru Sreenivas

COUNSEL FOR THE RESPONDENTS: A.G.P. for Civil Supplies (AP)

THE COURT MADE THE FOLLOWING:

ORDER:

-

This writ petition is filed for a Mandamus to declare the action of the respondents in not refunding a sum of Rs.20,125/- in pursuance of judgment, dt.21.2.2005, in Criminal Appeal No.170 of 2003, of the District and Sessions Judge, Chittoor, as illegal and arbitrary. The petitioner sought for a direction to the respondents to refund the said money along with interest at 18% per annum from 25.06.1998 till the realization.

The facts of this case disclose an utter indifference on the part of the respondents in respecting a judicial verdict and negligence in treating the victim of an unlawful action.

Suspecting the petitioner of being involved in a clandestine business in paddy, the respondents have seized 50 bags of paddy along with the tractor on 25.06.1998. The paddy was put to public auction by respondent No.5 pending proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short, 'the Act') and remitted the sale proceeds of Rs.20,125/- vide Challan No.254, dt.11.12.1998. The proceedings under Section 6-A of the Act ended in confiscation of the entire seized stock by respondent No.4, vide his order dt.23.2.1999. Feeling aggrieved by the said order, the petitioner filed Criminal Appeal No.170 of 2003 in the Court of District and Sessions Judge, Chittoor, under Section 6-C of the Act. The said criminal appeal was allowed by the District Court by its judgment, dt.21.2.2005, wherein the Criminal Court has declared that the petitioner is entitled for refund of the value of the seized stock. This judgment has attained finality.

As the respondents have not refunded the value of the seized stock, the petitioner has approached respondent No.1 by filing a

petition on 1.3.2007. Since then the petitioner was communicating with the respondents and the latter in turn indulged in exchange of inter-departmental correspondence. Vexed with the attitude of the respondents, the petitioner has submitted his representation on 29.8.2012 to respondent No.2 with a request to him to refund the amount. As even this did not yield any result, the petitioner had to perforce to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

Moved by the plight of the petitioner, this Court on 14.12.2012 has passed the following order.

"Post for admission after two weeks.

This case demonstrates the arbitrariness of highest order on the part of the respondents.

The petitioner is a farmer. He was transporting the agricultural produce of paddy way back in the year 1998. The overenthusiastic officials of the Civil Supplies Department have seized the stock, alleging that the petitioner did not hold valid permit, so much so an order of confiscation was also passed. The paddy was sold and the sale proceeds were appropriated by the respondents.

The petitioner filed Criminal Appeal No.170 of 2003 in the Court of District and Sessions Judge, Chittoor. The appeal was allowed way back on 21.02.2005 and a specific observation was made to the effect that the petitioner shall be entitled to be refunded the value of the confiscated stock. Seven years have elapsed and the amount has not been refunded to the petitioner so far. As recently as on 30.07.2012, the District Supply Officer addressed a letter to the Commissioner of Civil Supplies, 2nd respondent herein soliciting the orders enabling him to authorize the Tahsildar to refund the amount. The 2nd respondent has just sat over the matter.

There shall be interim direction to respondents 1, 2 and 5 that the sale proceeds of the confiscated paddy shall be refunded to the petitioner within two weeks from today. The question as to whether the respondents are liable to pay interest on the amount, would be considered later."

At the hearing, learned Assistant Government Pleader for Civil Supplies (AP) submitted that in pursuance of the above reproduced interim order the petitioner was paid the sum of Rs.20,125/- on 18.1.2013.

Mr. Chetluru Sreenivas, learned counsel for the petitioner, submitted that the petitioner was put to severe hardship firstly due to

foisting of a false case and seizing the paddy belonging to him and secondly by failing to return the value of the seized goods within a reasonable time after disposal of Criminal Appeal No.170 of 2003.

I find merit in this submission. The logical consequence of result of the criminal appeal was the petitioner's entitlement to receive the value of paddy realized by sale in public auction. In the counter, the respondents have sought to throw the blame on each other and have also referred to some correspondence. Indeed, the record reveals that when the petitioner has submitted his petition as far back as 1.3.2007 before respondent No.1, for the first time the District Supply Officer has addressed a letter to respondent No.5 on 29.2.2009, i.e., exactly two years after the petitioner has requested them to release the money. At least thereafter, the respondents have not taken firm action for refund of the money. Mere correspondence between the Tahsildar, the Deputy Director of Treasury, the District Supply Officer and the Commissioner of Civil Supplies etc., would not absolve them of the inordinate delay in refunding the money to the petitioner. As rightly submitted by the learned counsel for the petitioner, his client was put to double disadvantage, namely, wrongful seizure and confiscation of the paddy and retention of the value of the paddy even after the petitioner succeeded in the legal proceedings. Therefore, the respondents cannot avoid the payment of reasonable interest for the wrongful and unjustified retention of money allegedly due and payable to the petitioner.

Though the petitioner has claimed interest at 18% per annum from 25.6.1998, i.e., the date of seizure, such claim is unreasonable, for illegal nature of seizure was first declared by the judgment of the Criminal Court in Criminal Appeal No.170 of 2003, on 21.2.2005. Therefore, for the period anterior to the said date, the petitioner is not entitled to any interest.

As the respondents are entitled to be allowed reasonable time for refund of the money, I feel three months time is reasonable period for

such refund.

Therefore, the respondents' liability to pay interest to the petitioner will commence from 21.2.2005. They shall pay interest at the rate of 12% per annum on Rs.20,215/- to the petitioner from that date till the said amount is paid to the petitioner. Respondent No.1 shall make this payment to the petitioner within one month from the date of receipt of this order.

The writ petition is allowed to the extent indicated above.

As a sequel to disposal of the writ petition, W.P.M.P. No.47919 of 2012 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

24-6-2015

bnr

Note: L.R. copies to be marked.

(B.O)

bnr