

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.3286 of 2015

BETWEEN

V. Ramesh.

... PETITIONER

AND

The State of Telangana, Rep. by its Principal Secretary, Revenue (Excise)
Department, Secretariat, Hyderabad and others.

...RESPONDENTS

Counsel for the Petitioner: MR. RAMIDI SATYANARAYANA

Counsel for the Respondents: GP FOR PROH. & EXCISE

The Court made the following:

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ORDER:

Petitioner herein claims that he carrying on business of kirana, jaggery and rice in the name of M/s. Anjani Kiranam Jaggery and Rice Merchant at Bheemaram, Hasanparthi, Warangal District and holds a valid license issued by the Commercial Tax Department vide TIN.No.28109278482. Petitioner

states that on 15.11.2014 the third respondent raided the petitioner's godown premises and seized unauthorized stocks and registered a case in COR.No.770/2014-15 under Section 34 (e) of the A.P. Excise Act. Petitioner states that he has filed a representation dated 21.1.2014 before the second respondent requesting for release of the seized stocks by enclosing the purchase bills and other documents in support of his claim regarding ownership of the seized stocks. Alleging the said application is not being considered, the petitioner approached this Court by WP.No.39625 of 2014, which was disposed of on 24.12.2014 directing the second respondent/Deputy Commissioner to consider the petitioner's application and pass appropriate orders within a week. The second respondent was also left free to impose appropriate conditions, if he considers release of the seized stocks in favour of the petitioner.

2. Petitioner, further, states that in spite of the aforesaid directions, the second respondent/Deputy Commissioner passed the impugned order dated 04.12.2014 holding that the seized stocks belong to one Ch. Sadasivudu, who is habitual offender and in view of that, the petitioner's ownership was doubted and the request for release of seized stocks was rejected.

3. The aforesaid order dated 04.12.2014 is questioned in this writ petition, *inter alia*, on the ground that the said order passed by the second respondent is antedated to avoid compliance with the directions of this Court in WP.No.39625 of 2014 dated 24.12.2014. The said order is also questioned on the other ground that the petitioner has submitted various bills and record in support of his contention that he is the owner of the said seized stocks and that no other person has come forward to collect the seized stocks, which also establishes his ownership.

4. Counter affidavit is filed by the third respondent giving various details and particularly in para 3 it is stated as follows:

"3. In reply to para 4 & 5, it is submitted that the crime registered in COR.No.770/2014-15, dated:15.11.2014 belongs to Ch. Sadasivudu

and others, who are illegally stored (26000) Kgs of Black Jaggery (but not white Jaggery) and (9000) Kgs of Alum abandoned at M/s. Bhavani Industries Rice Mill, near Seethampet Road, Hasanparthi Mandal but it is not related to petitioner i.e. M/s. Anjani Kirana and Jaggery and Rice Merchant. No one went to the licenced premises and never threats to close down the business and no case registered against this petitioner during 3rd respondent's tenure of SHO, Hanmakonda.

The Chemical Examiner opined that in C.E. Report is Black jaggery contains sugars and extraneous matter which can be used as raw material in the manufacture of illicitly distilled liquor and Alum also raw material for I.D. liquor distillation.

The petitioner V. Ramesh suppressing the real facts before the Hon'ble Court seeking to release the seized property as an imposter. The petitioner name is not reflecting in the case COR.No.770/2-14-15. The writ petitioner played fraud on the court stating that he is the owner of the seized articles without supporting any documents. The owner of the M/s. Bhavani Industries, Rice mill (H.No.1-3/4), Hasanparthy is Valasa Ramanadham (A4), during investigation he confessed that Black Jaggery and Alum stored in his rice mill by Chithikesi Sada Shivudu of Parkal illegally. Therefore, Ch. Sadashivudu is real owner of the seized articles, but not the petitioner herein."

5. It is evident from the above that the respondents dispute the ownership of the seized stocks claimed by the petitioner and according to the respondents, the seized stocks belong to one Ch. Sadashivudu and others. On the ground that the petitioner is no way concerned with the seized stocks, his request for release was rejected under the impugned order.

6. Petitioner has filed a reply affidavit again asserting that he is the owner of the seized stocks and that he has filed set of documents such as cash memo, purchase bills, way bills etc. in support of his contention that he is the owner of the seized stocks. Petitioner also states that the second respondent has failed to look into those documents, which are already produced by the petitioner along with his application for release of seized stocks.

7. After hearing the learned counsel for the petitioner and learned Government Pleader, it appears to be true that except the petitioner nobody

has come forward to claim the seized stocks.

8. Learned counsel for the petitioner submits that the petitioner is ready and willing to furnish appropriate security for release of the seized stocks. Petitioner, has even went further and stated in para 8 of the affidavit that he would furnish bank guarantee, if the second respondent is not satisfied with the third party security.

9. These circumstances, to my mind, clearly show that *prima facie* the petitioner appears to be the owner of the seized stocks.

When nobody else is coming forward to seek release of the seized stocks and when the petitioner has submitted his application for release of the seized stocks together with authorized documents in support of his claim, there is no reason as to why the second respondent is not considering the said request. The request of the petitioner for release of the seized stocks deserves due consideration and the impugned order dated 04.12.2014 merely rejects the application of the petitioner on the basis of panchanama and the FIR where the petitioner's name does not appear and that in those documents it is alleged that one Ch. Sadasivudu is the owner of the said seized stocks. The impugned order is, therefore, set aside.

10. The second respondent shall reconsider the application of the petitioner for release of seized stocks together with documents produced by him and after reaching satisfaction regarding the claim of the petitioner, pass appropriate orders. It is made clear that the second respondent is free to impose appropriate conditions, if he considers release of the seized stocks in favour of the petitioner. Further, the second respondent shall also be free to seek an undertaking from the petitioner that in the event of any rightful claimant, comes forward claiming the seized stocks, the petitioner will reimburse the value of the seized stocks to the said claimant and to that extent seek an indemnity bond from the petitioner while passing orders as to release of seized stocks.

The writ petition is accordingly allowed with the directions,
as above. As a sequel, the miscellaneous applications, if any, shall stand
closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

March 25, 2015
DSK