

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.1920 of 2015

-

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

The petitioner questions the order passed by the 2nd respondent in Appeal No.C.R.No.3158/2014/CPE/TS/D1, dated 08-01-2015, confirming the order passed by the 3rd respondent in C.R.No.803/2014/PE/B2, dated 29-10-2014, whereby the petitioner's Auto bearing No.AP-36-TB-4108, having been found involved in an offence punishable under Section 34(e) of the A.P.Excise Act, 1968, was directed to be confiscated.

Learned counsel for the petitioner states that the petitioner is only the owner of the vehicle and he is unconnected with the said offence. It is also stated that in respect of earlier instance, this Court in Crl.P.No.506 of 2014, dated 31-01-2014, ordered release of the vehicle subject to execution of personal bond of Rs.1,25,000/- and furnishing bank guarantee for Rs.25,000/-. At a subsequent point of time, when the Deputy Commissioner passed the order of confiscation, the vehicle was seized and is kept with the 4th respondent. The petitioner states that the auction proceedings are now proposed to be taken up, where his vehicle if sold, serious prejudice would be caused to him.

In view of the various pronouncements of the judgments of the Hon'ble Supreme Court and this Court, which are referred to in the order of confiscation passed against the petitioner's vehicle, such confiscation cannot be said to be vitiated. Therefore, if the petitioner is willing to deposit the value of the vehicle, there is no reason why auction proceedings have to be resorted to. As respondents 2 and 3 would be receiving the same value, which they may receive by conducting auction, in my view, it would be appropriate that the Motor

Vehicle Inspector concerned, so far as the jurisdiction of respondents 3 and 4 is concerned, is required to ascertain the value of the subject vehicle by inspecting the same and thereafter, the petitioner can be permitted to deposit the value of the vehicle, as assessed, to the credit of the 3rd respondent, in lieu of confiscation of the vehicle.

Hence, the writ petition is disposed of directing respondents 3 and 4 to get the value of the subject vehicle assessed through the Motor Vehicle Inspector concerned within their jurisdiction and, on ascertaining the value of the vehicle, grant two weeks time to the petitioner to deposit the said value with the 3rd respondent and if the petitioner complies with the order as to deposit, the vehicle may be released by appropriating the value in lieu of confiscation. If any amount is paid by the petitioner during pendency of these proceedings, including at the stage of interim release of the vehicle, the same shall be given credit to while receiving the value of the vehicle. Pending exercise as directed above, the proceedings for auction of the subject vehicle of the petitioner shall remain stayed. In the event of the petitioner failing to deposit the amount as directed above, the 3rd respondent is free to proceed further for recovery of the value of the subject vehicle by auctioning the vehicle. The respondents 3 and 4 shall therefore act in accordance with the directions given above.

Accordingly, the writ petition is disposed of. No order as to costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 04-02-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.1920 of 2015

04-02-2015

