

***THE HON'BLE SRI JUSTICE A.V. SESA SAI***

**Writ Petition No.9094 Of 2014**

**ORDER:**

This writ petition filed under Article 226 of the Constitution of India calls in question the proceedings of the Additional Registering Authority, Office of the Regional Transport Authority, Kadapa, Y.S.R.District, dated 22.02.2014.

According to the petitioner, he emerged as successful bidder in the tenders opened on 17.05.2013 by the 3<sup>rd</sup> respondent – Divisional Forest Officer, Kadapa, Y.S.R.District, for sale of confiscated motor vehicles through tender-cum-negotiations, pursuant to the tender notice dated 25.04.2013 issued by him, in respect of Qualis Vehicle, bearing No.AP 16AT 3834. It is further pleaded that the said bid was confirmed in favour of the petitioner for a sum of Rs.1,40,500/- and the petitioner paid the entire amount also. Subsequent to that, the 3<sup>rd</sup> respondent – Divisional Forest Officer issued proceedings R.C.No.786/2010/A5 dated 28.05.2013 to the effect that the petitioner paid the full consideration with VAT and income tax and accordingly instructed the Forest Range Officer, Vempalli, to release the said vehicle and report compliance and the petitioner herein had taken over the possession of the said vehicle.

The petitioner herein submitted an application to the 2<sup>nd</sup> respondent – Registering Authority, Office of the RTA, Kadapa, Y.S.R.District, under Rule 57 of the Central Motor Vehicles Rules, 1989 (for short 'the Rules') enclosing all the relevant documents and necessary fee for transfer of ownership of the said vehicle in his favour and the same was in warded as R.No.8/B4/2014. It is further pleaded that the 2<sup>nd</sup> respondent referred the matter to the 4<sup>th</sup> respondent - Motor Vehicle Inspector for the purpose of inspecting the vehicle and thereafter, the 4<sup>th</sup> respondent inspected the vehicle on 07.01.2014.

On 07.01.2014, he issued proceedings stating that the Chassis number and engine number are not tallying with the extract copy of the registration certificate of the vehicle and also stated that the vehicle is in roadworthy condition. Pursuant to the said inspection report submitted by the 4<sup>th</sup> respondent, the 2<sup>nd</sup> respondent issued the impugned proceedings dated 22.02.2014 informing that as per the circular memo No.1388/V1/2009, dated 18.03.2010 of the Transport Commissioner, Andhra Pradesh, Hyderabad, if the chassis number and engine number of registration certificate found not genuine, the vehicle shall be sold as scrap and accordingly rejected the application of the petitioner for transfer of ownership.

It is submitted by the learned counsel for the petitioner that the impugned action on the part of the 2<sup>nd</sup> respondent is illegal, arbitrary and unreasonable and even violative of Rule 57 of the Rules and contrary to the orders passed by this Court in W.P.No.23980 of 2010 dated 23.12.2010.

On the contrary it is submitted by the learned Government Pleader for Transport appearing for the respondents that the questioned action is strictly in conformity with law and as per the circular memo No.1388/V1/2009 dated 18.03.2010, the petitioner herein is not entitled to any relief from this Court. It is also submitted by learned Government Pleader that so far the Divisional Forest Officer did not approach nor addressed letter to the office of the Deputy Transport Commissioner, Kadapa, referring registration details, tax liability etc. of the vehicle. It is further submitted that as per the memo dated 18.03.2010, it is incumbent on the part of the respondents to obtain the opinion of the Regional Transport Authority before proceeding with the auction of the seized vehicles.

Rule 57(2) of the Rules reads as under:

“(2) Where the vehicle auctioned is a vehicle without any registration mark, or with a registration mark which on verification is found to be false, the registering authority shall, subject to the provisions of section 44, assign a new

registration mark to the vehicle in the name of the Department of the Central Government or State Government auctioning the vehicle and thereafter record the entries of transfer of ownership of the vehicle giving the name and address of the person to whom the vehicle is sold:

Provided that motor vehicle in the name of the Central Government or State Government shall not be transferred by the concerned registering authority without verifying the proceeding of the auction or disposal of the concerned vehicle.”

In the considered opinion of this Court, the respondent authorities ought to have considered the issue in terms of Rule 57(2) of the Rules.

During the course of hearing it is brought to the notice of this Court that when identical question came up before this Court for consideration, this Court passed an order on 23.12.2010 in W.P.No.23980 of 2010 and a copy of the same is placed on record.

In view of the said decision, this Court deems it appropriate to dispose of the writ petition in terms of the said order.

For the aforesaid reasons and having regard to the above referred order, this writ petition is disposed of directing the 2<sup>nd</sup> respondent herein to forthwith proceed to check the vehicle of the petitioner bearing No.AP 16AT 3834 and in case it is found to be in accordance with the provisions of the Motor Vehicles Act and the Rules, the same shall be registered in the name of the 2<sup>nd</sup> respondent in terms of Rule 57 of the Rules at the first instance and thereafter, record transfer of ownership in the name of the petitioner in accordance with law. This exercise shall be completed within a period of 30 days from today. No order as to costs. As a sequel, the miscellaneous petitions, if any, shall stand closed.

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**JUSTICE A.V. SESA SAI.**

06.07.2015

GJ