HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9519 of 2006

ORDER:

1. The petitioner states that he is the Managing Partner of M/s Murthy Agencies, dealer of Hindustan Petroleum Corporation Limited, and running a petrol bunk at Vemagiri village, Kadiam Mandal, East Godavari District. At a distance of 0.5 Kilometer from his petrol bunk, the petrol bunk of the 4th respondent was located. The Inspector, Vigilance Cell, Kakinada, conducted a raid on the petrol bunk of the 4th respondent on 12.08.1999 and seized the entire quantity from the underground storage tank of the 4th respondent and a symbolic custody of the same was given to the petitioner. The petitioner acknowledged the same. The 4th respondent stopped the operations of the petrol bunk. The petitioner came to know that an order of confiscation of the entire seized stock was passed by the 1st respondent on 13.12.1999. But, in the appeal preferred before the Sessions Judge, the order of confiscation was set aside on 30.09.2005. Thereafter, the 2nd respondent issued a notice to the petitioner on 11.07.2005 calling upon him to handover the seized stock or its value to the 4th respondent. It was followed by another notice on 04.08.2005. The petitioner submitted his reply on 16.02.2006 indicating that only a symbolic possession was given to him way back in 1999 and nearly six summers have crossed resulting in depreciation of the stock. However, without passing any order, when a notice was received from

the 3rd respondent on 24.04.2006 proposing to attach the property of the petitioner, the present writ petition was filed.

2. This Court by order dated 02.05.2006 granted interim stay of all further proceedings and seeking vacation of the same, no application was filed by the respondents. But, however, a counter-affidavit was filed by the 1st respondent stating that on the direction of the Joint Collector to the Mandal Revenue Officer, Kadiam to invoke the provisions of the A.P. Revenue Recovery Act and collect the seized stock value from the custodian, the petitioner, the proceedings were initiated.

3. A separate procedure is prescribed under the provisions of the A.P. Revenue Recovery Act and that procedure was not followed in the instant case. There is no separate order passed by any authority constituting the basis for invoking the provisions of the A.P. Revenue Recovery Act except the oral direction of the Joint Collector. In the circumstances, this Court is satisfied that the impugned order suffers from procedural irregularities and the same is accordingly set aside.

4. The Writ Petition is accordingly allowed. However, this will not prevent the respondents from taking action against the petitioner in accordance with law. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

A.RAMALINGESWARA RAO, J

20-10-2016
Gsn

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते