

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.34743 of 2012

ORDER:

Heard the learned counsel for petitioner, the learned Government Pleader for Transport (TS) for respondents 1 and 2 and the learned counsel for respondent No.3.

2. It is the case of the petitioner that he is the owner of a tractor and trailer No.AP15T 1648 and 1649. While so, on 18.10.2004, the third respondent approached the second respondent for issuance of duplicate certificate of registration and transfer of ownership of the said tractor and trailer in his name by enclosing Form Nos.26 and 29 in duplicate and Form No.30 with the forged signatures of the petitioner. The authorities issued duplicate registration certificate and transfer of ownership was effected in the name of the third respondent on 23.10.2004. The petitioner submitted a representation on 06.12.2004 to the authorities stating that he has not given any consent for transferring of the said tractor and trailer and he disputed the signatures on Form Nos.29 and 30. The Deputy Commissioner of Transport, Karimnagar directed the second respondent to conduct an enquiry in the matter. Based on the same, the second respondent issued notices to the petitioner as well as to the third respondent, and after recording the statement, the matter was referred to the Station House Officer, I Town Police Station, Karimnagar with a request to investigate the matter. Thereafter, the case was tried as C.C.No.508 of 2006 on the file of the Court of the Special Judicial Magistrate of First Class (Excise), Karimnagar and the third respondent was acquitted in the said case. In the course of said criminal proceedings, a report was obtained from the Andhra Pradesh Forensic Science Laboratory with the admitted signatures of the petitioner as well as the signatures in Form Nos.29 and 30. It came to the *prima facie* conclusion that the signatures on Form Nos.29 and 30 are forged signatures. Thereafter, the petitioner filed an application before the

Judicial First Class Magistrate at Husnabad (for short, trial Court) to produce the tractor and trailer before the Court and accordingly a direction was issued to the police to produce the same. The tractor and trailer was stated to have been in the custody of the trial Court. The third respondent filed a petition under Section 451 of the Cr.P.C before the trial Court and the trial Court declined to grant custody of the tractor on the ground that the enquiry is pending before respondents 1 and 2.

3. While so, the third respondent filed an application before the second respondent to decide the ownership of the tractor and trailer. Though a notice was stated to have been issued to the petitioner, the same was not served on him, and in his absence, the second respondent passed an order on 07.09.2010 declaring the third respondent as the owner of the tractor and trailer. Challenging the said order, the petitioner preferred an appeal before the first respondent, who confirmed the order of the second respondent dated 07.09.2010, by order dated 21.06.2011. Challenging the same, the petitioner filed W.P.No.21946 of 2011 mainly on the ground that the first respondent was none other than the second respondent at the time of passing the orders. The writ petition was allowed on that ground and the matter was remitted to the first respondent for passing fresh orders in accordance with law. Based on the same, the first respondent passed a fresh order on 12.10.2012 confirming the order of the second respondent, challenging which, the present writ petition is filed.

4. As stated above, the main ground alleged in the writ petition is with regard to transfer of the vehicle in the name of the third respondent by forging the signatures of the petitioner on Form Nos.29 and 30. The criminal case that was lodged against the third respondent was under Section 420 of IPC and the Court of Special Judicial Magistrate of First Class (Excise), Karimnagar observed that no charge was framed with regard to the forgery and in the absence of prosecution witnesses, the

third respondent was acquitted in the said case. The first respondent passed the impugned order on 12.10.2012 noticing the submission of the petitioner that he left the village for some period due to financial difficulties and the third respondent took advantage of his absence and got the document transferred in his name. On the representation of the petitioner only, an enquiry was conducted which lead to the registration of criminal case in C.C.No.508 of 2006 against the third respondent where the third respondent was acquitted.

5. The third respondent filed a counter stating that the petitioner borrowed an amount of Rs.1 lakh from him and also borrowed nearly Rs.40 lakhs from the villagers. In those circumstances only, the petitioner offered to sell the tractor and trailer for an amount of Rs.1,20,000/- and after deducting Rs.1 lakh, he paid Rs.20,000/- and the transfer was effected on the basis of the signatures put in by the petitioner only.

6. In the circumstances, it cannot be said that the orders passed by respondents 1 and 2 are not proper. The title of the petitioner cannot be established or decided by the transport authorities and it has to be established only in regular civil proceedings. Though earlier proceedings were taken up against the third respondent, they are only criminal proceedings where the case had to be proved beyond reasonable doubt.

7. Hence, the writ petition is dismissed, but giving liberty to the petitioner to take appropriate proceedings in accordance with law, if he wants to establish title over the tractor and trailer claimed by him. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 18.03.2016

TJMR