

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.35983 of 2016

ORDER:

Heard Mr. Venkateswara Rao Gudapati for petitioner and learned Government Pleader (Civil Supplies) for respondents.

2. Petitioner challenges endorsement Roc.No.CS.1/38/ECA/2016 dated 18.10.2016 as illegal and contrary to the order of VIII Additional District Judge, West Godavari District in I.A.No.488 of 2016 in CMA.No.17 of 2016.

3. To appreciate the factual and legal objections of petitioner, this Court is of the view that excerpting the operative portion of the order in I.A.No.488 of 2016 and the impugned endorsement would suffice the purpose.

I.A.No.488 of 2016:

"POINT NO.2:- In the result, the petition is allowed. The vehicle bearing registration No.AP37 TE 1188 is ordered to be given to the interim custody of the 1st petitioner subject to the condition of furnishing bank guarantee equivalent to it's value as mentioned in the order of the lower court. 1st petitioner/1st appellant is directed to produce the vehicles as and when directed by this court. He is further directed not to alienate the vehicle till the disposal of the appeal."

Impugned Endorsement:

Roc.No.CS.1/38/ECA/2016 West Godavari, Collectorate
Eluru, dt: 18/10/2016

ENDORSEMENT

PRESENT: SRI BHASKAR KATAMNENI, I.A.S.,
DISTRICT COLLECTOR, WEST GODAVARI, ELURU

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With reference to the Bank Guarantee for Rs.12,00,000/- of Andhra Bank, Bhimadole, dt.29.09.2016 filed on 06.10.2016 for release of the seized vehicle bearing No.AP

37 TE 1188. It is hereby informed to file Bank Guarantee for five years in the matter as the respondents in the 6A cases have been approaching several courts beyond the statutory relief under the E.C. Act, 1955 as the Law is clear that the relief is extinguished by filing the appeal before the District Judge. Contrary to the Law the respondents on one hand submitting the bank guarantees getting the seized items released and instructing the concerned banks not to honor the request of the Collector regarding the renewal of the Bank Guarantees expired during the course of Leal Process/Appeals.”

4. The endorsement, it is fairly stated by the learned Government Pleader, has been issued to ensure that the petitioner does not either misuse the release of the vehicle or defeat the objective for which the bank guarantee is issued either on account of non-renewal or preventing the authority from encashing the same.

5. This Court is of the view that the Collector, West Godavari District, if, for any reason, finds that the order of the competent Court is not safeguarding the interests in the ongoing enquiry or ensuring production of subject vehicle, ought to have challenged the order in I.A.No.488 of 2016 in accordance with law. Having chosen not to pursue the legal remedies against order in I.A.No.488 of 2016, imposition of additional conditions, by the Collector, cannot and could not be sustained. Hence, the writ petition is ordered as follows:

1. Petitioner is directed to keep the bank guarantee, issued pursuant to order in I.A.No.488 of 2016, alive as long as the proceedings initiated against petitioner under 6A of the E.C. Act are continued.
2. The second respondent is directed to release the vehicle forthwith by accepting the bank guarantee already furnished by the petitioner.

3. The other conditions imposed by the learned VIII Additional District Judge remain unaltered.

As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

October 26, 2016
DSK

S. V. BHATT, J

