

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.12.2017
CORAM:
THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
W.A.No.581 of 2017
and C.M.P.No.8187 of 2017

M/s.VRV Asia Pacific Pvt. Limited
Rep. by its Company Secretary
Mr.Ajithkumar, No.220, Italia Lane,
Sri City DTZ, Varadalahpalem Mandal,
Near Tada, Chittoor District.

... Appellant

Vs.

1. Union of India rep. by its
General Manager,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
Chennai-600 001.
2. Union of India rep. by its
Secretary to Government of India,
Ministry of Law and Justice,
New Delhi.
3. The State of Andhra Pradesh
Rep. by its Inspector of Police,
Varadhlahpalem Police Station,
Chittoor District, A.P. State.

... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 26.04.2017, made in W.P.No.8012 of 2017 and direct the first respondent to accept the specified Bank notes of the denomination Rs.1000X400 and Rs.500X400 = Rs.6,00,000/- received by the appellant herein under orders of the Court of Judicial Magistrate No.I, Sathyavedu in CrI.M.P.No.1933 of 2016 in Cr.No.59 of 2016 on the file of the third respondent.

Prayer in WP.NO.8012 of 2017:Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records relating to the proceedings of the 1st respondent dated 08.03.2017 made in CY (Admn) 5181/01.01.039/2016-2017, quash the same and consequently direct the 1st respondent to accept the specified Bank Notes of the denomination Rs.1000x400 and Rs.500x400=Rs.6,00,000/- received by the petitioner under orders of the Court of Judicial Magistrate I, Sathyavedu, Ordered on 27.12.2016 in CrI.M.P.No.1933 of 2016 in Cr.No.59/2016 on the file of the 3rd respondent.

For Appellant : Mr.M.Baskaran

For Respondents: Mr.C.Mohan for
M/s.Kind and Partridge for R1
Mr.Venkataswamy Babu for R2

J U D G E M E N T

[Judgement of the Court was delivered by RAJIV SHAKDHER, J.]

1. Vide our order dated 07.11.2017, we have sketched out the contours of the controversy arising in the matter. Accordingly, the order dated 07.11.2017, is set out below :

"1. This appeal has been preferred against the judgement of the learned Single Judge dated 26.04.2017, whereby, the writ petition filed by the appellant was, principally, dismissed on the ground that the Supreme Court is seized of the matter pertaining to "demonetization".

2. This is a case, where, two lorries containing scrap and a sum of Rs.6,00,000/- in cash were seized from the appellant. Apart from the appellant, there is another entity, i.e., K.M.Steels, which is claiming rights over both the money as well as the scrap.

2.1. The appellant before us had moved a petition before the Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh (in C.M.P.No.1933 of 2016 in Crime No.59 of 2016 of Varadaiahpalem Police Station) for release of the case property, i.e., scrap and the cash, referred to above.

2.2. Our attention has been drawn to the order dated 27.12.2016, passed by the Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh. The Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh, has passed the following operative directions :

"..... After considering all the aspects as discussed above, this Court is of opinion that it is just and proper to give cash of Rs.6,00,000/- and scrap lying on the two lorries to the Petitioner

company after obtaining sufficient sureties and after executing Panchanama, obtaining Photocopies and Video which will be helpful during the trial. This Court wants to make it clear once again that this Court is not deciding the rights of the parties in this Petition. The security or surety which ever is deposited or paid by Petitioner company will be given to the rightful person, after completion of trial. The rights of parties will be decided only after completion of trial. This Court wants to further make it clear that Petitioner company is at liberty to sell the scrap and to use the currency notes after taking for interim custody. The case is Rs.6,00,000/-. As per the submission of learned Advocate for the Petitioner company, the value of the scrap is Rs.75,26,000/- therefore, this Court is of opinion that it is just and proper to order the Petitioner company to furnish unconditional Bank Guarantee for Rs.82,00,000/- by obtaining from any Nationalised Bank in Sathyavedu in the name of Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu as per the RBI guidelines. This Petition has merits and deserves to be allowed. Accordingly, the Point is answered.

In the result, this Petition is allowed. No costs. Return Rs.6,00,000/- cash and scrap lying on the two lorries to the Petitioner company on its furnishing unconditional Bank Guarantee for Rs.82,00,000/- by obtaining from any Nationalised Bank in Sathyavedu in the name of Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu to the maximum period as per the guidelines of RBI. In case of expiry of Bank Guarantee period, the Petitioner company shall itself approach this Court and shall renew the same for further period from time to time till completion of trial and passing final order as to property. The Petitioner company shall also execute bond for Rs.82,00,000/- in the name of Junior Civil Judge cum Judicial Magistrate of I

Class, Sathyavedu.

The Superintendent and Property Clerk of this Court are directed to return the cash of Rs.6,00,000/- to the Authorized Representative of the Petitioner company under proper acknowledgement for interim custody subject to the above conditions in the presence of Presiding Officer of this Court. The Superintendent and Property Clerk of this Court are further directed to return cash through Presiding Officer of this Court after taking minimum two photographs of the property and also taking video of delivering of the property and executing Panchanama in the presence of two witnesses. Acknowledgement issued by the Petitioner company, photographs and video along with CD and Panchanama shall be kept in the case file.

The Station House Officer, Varadaiahpalem Police station is directed to return the Stainless steel scrap lying on lorry No.TN 29 AS 5677 and carbon steel scrap lying on lorry bearing No.TN 22 DA 3345 (only scrap shall be returned but not lorries) to the Petitioner company subject to the above conditions. The Station House Officer, Varadaiahpalem Police station is further directed to return the property after taking minimum 6 photographs (3 for each lorry) of the scrap and also video and also executing panchanama in the presence of two witnesses. Station House Officer, Varadaiahpalem Police station shall file acknowledgement issued by the Petitioner company, Photos, Video along with CD and Panchanama before this Court."

3. Mr.C.Mohan, who appears for RBI, says that after the Supreme Court passed the order dated 16.12.2016, in W.P.(C) No.960 of 2016, on which reliance has been placed by the learned Single Judge, the Department of Economic Affairs, Ministry of Finance, Government of India, has issued a Gazette notification being G.S.R.No.460(E), dated 12.05.2017, which allows for conversion of seized, confiscated currency into legal tender, provided conditions contained therein

are fulfilled. Learned counsel says for the conversion to happen serial numbers of confiscated currency will have to be provided by the appellant.

3.1. In this regard, Mr.Mohan, also relies upon the RBI instructions bearing No.DCM(Plg) No.5066/10.27.00/2016-17, dated 25.05.2017.

4. Having regard to the aforesaid circumstances, the Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh, is requested to furnish the relevant information with regard to the serial numbers of the confiscated/seized notes, which were the subject matter of the order dated 27.12.2016, albeit, prior to the next date of hearing.

5. Re-notify the matter on 29.11.2017."

2. Pursuant to our order dated 07.11.2017, the Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh, has submitted a report dated 23.11.2017.

2.1. A perusal of the report would show that a sum of Rs.6,00,000/- was seized from accused No.1 in Crime No.59 of 2016 on the file of the Varadaiahpalem Police Station. However, neither in the mazaharnama nor in the panchananama, the currency numbers were recorded. The report is, however, accompanied by three photographs and two (2) CDs.

3. In these circumstances, we are inclined to dispose of the appeal with a direction to the Reserve Bank of India (in short, "RBI"), to act in accordance with the Gazettee notification issued by the Department of Economic Affairs, Ministry of Finance, Government of India, being : G.S.R.No.460(E), dated 12.05.2017 and its own instructions bearing No.DCM(Plg) No.5066/10.27.00/2016-17, dated 25.05.2017, after satisfying itself as to whether the sum of Rs.6,00,000/- (Rupees six laksh only), which, the appellant says it has in its custody, comprises of the same currency notes that were returned to it by the Junior Civil Judge cum Judicial Magistrate of I Class Court, Sathyavedu, Andhra Pradesh, vide order dated 27.12.2016, passed in Crl.M.P.No.1933 of 2016.

3.1. The Registry is, thus, directed to handover a certified copy of the aforesaid report dated 23.11.2017, along with the three (3) photographs and two (2) CDs to Mr.C.Mohan, Advocate, for RBI.

4. The appellant will be free to approach the RBI in terms of the directions issued by us hereinabove.

5. Consequently, the appeal is allowed, to the extent indicated above. The order of the learned Single Judge is set aside. Resultantly, pending application shall stand closed.

6. Needless to say that the aforesaid exercise will be completed by RBI as expeditiously as possible.

7. The Registry, for good order and record, will keep a copy of the report submitted by the Junior Civil Judge cum Judicial Magistrate of I Class, Sathyavedu, Andhra Pradesh, along with copies of the photographs as well as CDs referred to above.
gg

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

To

1. The General Manager,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
Chennai-600 001.
2. The Secretary
Ministry of Law and Justice,
Government of India,
New Delhi.
3. The Inspector of Police,
Varadhlahpalem Police Station,
Chittoor District, A.P. State.

Copy to:

- 1.The Registrar General
High Court, Madras(vide for Para 7)
- 2.The Registrar Judicial
High Court, Madras(vide for Para 7)

+1cc to M/s.King & Partridge, Sr.No.91028
+2cc to Mr.M.Baskaran, Advocate Sr.No.90789
+1cc to M/s.venkataswamy Babu, Advocate SR.No.90676

W.A.No.581 of 2017

KJI(CO)
sm:18.1.2018