

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.355 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 34825 of 2016 dated 5.12.2016 whereby the respondents-writ petitioners were directed to give third party security for the seized goods and the seized vehicle; and, on such security being furnished, the appellants-respondents were directed to release the vehicle and the goods. The learned Single Judge also directed that the vehicle shall not be subjected to alienation. The second petitioner was directed to produce the vehicle as and when directed by the authorities. As regards the seized goods, the learned Single Judge held that the first petitioner could seek permission of the second respondent therein to alienate and inform them of the value realized in this behalf.

The submission of the learned Government Pleader for Civil Supplies is that, in the light of the orders of the Supreme Court in **Deputy Commissioner, Dakshina Kannada District vs. Rudolph Fernandez¹**, and **Collector of Ganjam vs. Ramesh Chander Pandhi²**, it is only on a bank guarantee being furnished, can the respondents be directed to release the goods; and the order of the learned Single Judge, directing that the subject goods be released on furnishing third party security, is contrary to law and must, therefore, be set aside.

¹ (2000) 3 SCC 306

² AIR 2009 SC 1850

Sri K. Venumadhav, learned counsel for the respondents-writ petitioners, would submit that the subject goods were seized earlier by the Civil Supplies authorities; the respondents-writ petitioners were directed by this Court earlier, in its order in W.P. No. 3451 of 2016 dated 5.2.2016, to furnish a bank guarantee for the entire seized stock and, on such bank guarantee being furnished, the appellants-respondents were directed to release the goods; after the respondents-writ petitioners had furnished a bank guarantee for the entire seized stocks, the subject goods were released; and, when the goods were again being transported, they were seized again, which resulted in the order under appeal being passed. According to the learned counsel, the respondents-writ petitioners had furnished not only a bank guarantee, but also third party security, for the very same goods; and the law declared in the aforesaid judgments of the Supreme Court would apply only in the case of the first seizure and not where the goods were seized after its release pursuant to a bank guarantee being furnished by the petitioners.

We found a variation in the quantum of rice as recorded in the proceedings of the District Collector dated 1.4.2016 and the panchanama dated 5.10.2016. While the former referred to the seized stock as 96.70 quintals of suspected PDS rice, the subsequent panchanama dated 5.10.2016 refers to the respondents-writ petitioners having transported 213.00 quintals of rice. Sri K. Venumadhav, learned counsel for the respondents-writ petitioners, would submit that the goods seized earlier were in two vehicles, one carrying a quantity of 96.70 quintals, and the other carrying a quantity of 124.96 quintals of rice; the quantity of rice,

in both the vehicles, put together is around 221.10 quintals, which is more than what was seized the second time ie of 213 quintals; and as the respondents-writ petitioners had already furnished a bank guarantee for the very same quantity of rice, the learned Single Judge was justified in not insisting on a bank guarantee all over again and, instead, directing that the goods be released on furnishing immovable property as third party security.

The interest of the Government would not be secured merely by a third party security being furnished, as that would require further action to be taken by the officials concerned to first ascertain the title of the respondents-writ petitioners over the subject property, and to then go through an elaborate process of putting the property to sale. Therefore, Courts, ordinarily, insist on a bank guarantee being furnished, for the value of the seized goods, as a pre-condition for its release. In the present case, however, the respondents-writ petitioners have already furnished a bank guarantee for the value of the very same goods, pursuant to which alone were the subject goods released in favour of the respondents-writ petitioners. The very same goods were again seized after its release and, the second time, the learned Single Judge directed that immovable property as third party security be furnished as a pre-condition for release of the goods. In effect, for the very same goods, the respondents-writ petitioners have furnished not only a bank guarantee, but also third party security in the form of immovable property. The aforesaid judgments, relied upon by the learned Government Pleader, do not have any application to the facts of the present case. As the order under appeal was passed directing release of the same goods a second time over, and as, in

the first instance, the respondents-writ petitioners were directed to furnish a bank guarantee for the value of the goods, which they have admittedly furnished and which is said to be still in force, we find no error in the order under appeal necessitating interference under Clause 15 of the Letters Patent.

The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

31st March, 2017

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(Dr. SHAMEEM AKTHER, J)



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Date: 31.3.2017

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