

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

WRIT PETITION No.43482 of 2017

22.12.2017

Between:

Sk.Mohd.Rasool

..Petitioner

and

The State of Andhra Pradesh,
represented by its Secretary,
Revenue (CT) Department, Guntur and others

..Respondents

Counsel for the petitioner: Mrs.P.Vijaya Lakshmi

Counsel for the respondents: Mr.Shaik Jeelani Basha,
Special Standing Counsel for Commercial Taxes (A.P)

The Court made the following:



ORDER: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for a *mandamus* to declare the action of respondent No.3 in detaining the petitioner's vehicle *viz.*, lorry bearing registration No.AP 07 TA 1616 as illegal and arbitrary. The petitioner has sought for a consequential direction to release the said vehicle.

2. At the hearing, Mrs.P.Vijaya Lakshmi, learned counsel for the petitioner has submitted that on 11.12.2017, the petitioner's lorry was engaged by one Vasanthu, proprietor of Vinayaka Granites, for transportation of granite slabs from Martur to Gullapalli Growth Center and that when the lorry was on its way to its destination, respondent No.3 seized and detained it along with the granites. She has further submitted that even if the owner of the granites has committed any illegality, the petitioner is innocent and he has no complicity in the violation committed by the owner of the granites.

3. Mr.Shaik Jeelani Basha, learned Special Standing Counsel for Commercial Taxes (A.P.) appearing for the respondents, has submitted that the goods were being transported without any supporting documents whatsoever and that when the lorry was intercepted, the driver escaped. He has also submitted that the check report and panchanama were prepared and as no one was present to receive the same, they were affixed to the lorry. He has further submitted that respondent No.3 has to initiate confiscation proceedings in respect of the goods transported in the lorry.

4. It is not in dispute that the petitioner is the owner of the lorry. The question whether the goods were accompanied by any supporting documents or not needs to be adjudicated by respondent No.3 in the

confiscation proceedings. As conclusion of such proceedings is likely to take substantial time, continued detention of the petitioner's lorry would cause hardship to him.

5. In these facts and circumstances of the case, respondent No.3 is directed to release the seized vehicle *viz.*, lorry bearing registration No.AP 07 TA 1616 to the petitioner, subject to the latter handing over the original registration certificate of the vehicle and his giving an undertaking that the vehicle will not be alienated or any third party interests will be created thereon and that the vehicle will be produced as and when the same is requisitioned by respondent No.3 during the confiscation proceedings. On receipt of the original registration certificate of the vehicle, respondent No.3 shall issue a certificate to the effect that the petitioner has handed over the original registration certificate and also furnish a photocopy of the registration certificate to enable him to continue to ply the vehicle. The release of the vehicle to the petitioner is, however, subject to the result of the confiscation proceedings.

6. Subject to the above directions, the Writ Petition is disposed of.

7. As a sequel to disposal of the writ petition, W.P.M.P.No.53900 of 2017 filed by the petitioner for interim relief stands disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

22nd December, 2017
GHN

