

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No. 1308 of 2014

And

M.P.No. 1 of 2014

1. The District Revenue Officer
Krishnagiri.
2. The Inspector of Police
CSCID, Krishnagiri
Krishnagiri.
3. The District Supply Officer
Krishnagiri District,
Krishnagiri. ... Appellants / Respondents

Vs.

M.Vimalan ... Respondent/ Petitioner

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 28.08.2014 made in W.P.No. 13473 of 2014 on the file of this Court.

Prayer in W.P.No.13473 of 2014:- Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.2567/2013 dated 31.10.2013 and quash the same and further direct the respondents to impose fine amount of Rs.15,000/- as it is a first time offence.

For Appellants : Mr. M.Srinivasan
Additional Government Pleader

J U D G M E N T

(Delivered by DR.VINEET KOTHARI, J)

The State, through District Revenue Officer, has filed the present Writ Appeal aggrieved by the Order of the learned Single

Judge dated 28.08.2014 by which the learned Single Judge allowed W.P.No. 13473 of 2014 filed by the petitioner M.Vimalan. The learned Single Judge directed release of the Bolero vehicle bearing No. TN-20-BQ-6453 which was found to be involved in alleged transportation of PDS rice illegally and the authority concerned had imposed a fine of Rs.2,50,000/- upon him. The learned Single Judge directed release of the said vehicle upon fulfillment of certain conditions including the deposit of a sum of Rs.15,000/- finding it to be a first time offence by the petitioner and also further directed filing of Undertaking and the Documents relating to said vehicle.

2. Aggrieved by the said Order, the State has filed the present Writ Appeal which was admitted by another Co-ordinate Bench of this Court on 27.10.2014.

3. The only argument raised before us is that since a statutory alternate remedy was available to the writ petitioner, he was bound to avail the same and could not have invoked the writ jurisdiction of this Court and that therefore, the Order passed on merits by the learned Single Judge in the present Writ Appeal deserved to be set aside.

4. We have heard the learned Additional Government Pleader appearing for the appellants.

5. We are satisfied that the present Writ Appeal filed by State has no merit and deserves to be dismissed. The exercise of writ jurisdiction under Article 226 of the Constitution of India is a discretionary power and the rule of alternative remedy is only a rule of discretion and does not create a bar against the exercise of writ jurisdiction by the High Court. If in exercise of its discretion, the learned Single Judge has exercised the writ jurisdiction without the petitioner availing of the alternative remedy by way of Appeal against the impugned order, such an Order passed by the learned Single Judge is not require to be interfered with by the Division Bench of this Court in intra Court Appeal filed by the State, only on that grounds, as contended.

6. We also find from the facts of the present case that the vehicle in question was seized way back on 08.09.2013 and in the ensuing litigation period, is still lying with the said Revenue authorities in view of the stay granted by the Co-ordinate Bench of this Court on 27.10.2014 while admitting the present Writ Appeal.

7. By sheer lapse of long time by now in 2019, the value of the vehicle in question would have definitely depreciated considerably. What the learned Single Judge directed by the

Order under Appeal was only a conditional release of the vehicle in question upon deposit of a part of the amount of fine, finding it to be a first offence of the respondent-writ petitioner. We are not inclined to interfere with the said Order under Appeal before us. Therefore, we dismiss the present Writ Appeal filed by the State.

8. Accordingly, the present Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

9. Before parting, we would also direct the Appellant/State to submit a report of such cases, where the vehicles of the private parties have been seized by the State by various Departments and on account of pendency of litigation or otherwise, the custody of such vehicles are still with the state authorities. A report should also be filed disclosing as to how these vehicles are being managed and kept in custody and whether such vehicles are used by the authorities of the concerned departments or are just kept lying by the concerned police stations or in the premises of the concerned departments. The said report may be furnished within a period of six weeks from today and the same may be placed in Chambers.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsg
To

1. The Chief Secretary,
State of Tamil Nadu, Fort St.George, Chennai.
2. The District Revenue Officer
Krishnagiri.
3. The Inspector of Police
CSCID, Krishnagiri, Krishnagiri.
4. The District Supply Officer
Krishnagiri District, Krishnagiri.
5. The Registrar (Judicial), High Court, Madras.

+1 cc to The Government Pleader, Sr.No. 49461

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SS(CO)
CSL/03.07.2019