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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.512 of 2019**

(Arising out of order dated 23/07/2019 passed in Writ Petition (Cr.) No.533 of 2017 by the learned Single Judge)

Nanku Ram Yadav son of Jhunai Ram Yadav, Aged About 78 Years, R/o. Village Risali Bhatha, P.S. Nevai, District Durg Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, Through The Secretary, Home Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Superintendent of Police, Balod, District Balod Chhattisgarh.
3. Station House Officer, Police Station Balod, District Balod Chhattisgarh.
4. Mahabir Goushala and Research Centre, Through The President, Mahabir Goushala and Research Centre, Balod, District Balod Chhattisgarh.

---- Respondents

For Appellant	:	Shri Sumit Singh Rathore, Advocate
For State/Respondent	:	Shri Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Parth Prateem Sahu, Judge****06/01/2020**

1. Challenge in this writ appeal is to the order dated 23/07/2019 whereby learned Single Judge has disposed of the writ petition filed by appellant, observing that the appellant/petitioner shall be at liberty to get the cattle released in his favour in accordance with the property disposal order of the trial Court after making payment of the dues as prescribed under the

provisions of Chhattisgarh Agricultural Cattle Preservation Act, 2004 (in short 'the Act of 2004').

2. The facts of the case, in nutshell are that, appellant was charged and tried for the offences under Sections 4 and 6 of the Act of 2004 and Sections 10 and 11 of the Cruelty against the Animal Act in Criminal Case No.379 of 2015. In the said crime animals possessed by the appellant was seized and it was handed over to respondent No.4. The competent Court after conclusion of the trial, has found not guilty to the appellant and passed an order of acquittal and further to handover the cattle seized from the possession of the appellant.
3. It is the case of the appellant that when he went to take back his cattle, he did not found cattle in place of respondent No.4 and his apprehension is that the cattle, which are 28 in number have been sold out by respondent No.4.
4. Respondent/State has filed reply to the writ petition and submitted that the cattle seized from the possession of the appellant was very much available in the *Mahaveer Gaushala* i.e. respondent No.4, as per the report submitted by the Station House Officer, Police Station Balod. He was asked to pay the charges to maintain the cattle as provided under the Act of 2004. The same has not been deposited by him and filed writ petition. It was also pleaded that there was alternative remedy available for the petitioner/appellant.
5. The learned Single Judge after considering the facts raised by the appellant and reply submitted by learned counsel appearing for the State,

and particularly, taking into consideration Section 9 of the Act of 2004, disposed of the writ petition with observation that petitioner to first deposit the dues under the Act of 2004 and thereafter will be at liberty to get his cattle released in his favour.

6. This order has been challenged by the appellant before this Court by filing writ appeal. Learned counsel for appellant submitted that he is ready to deposit the dues as per Act of 2004, but his cattle was not available there, with respondent No.4. His submission is that he may be permitted to go to the premises of respondent No.4 and firstly satisfy that his cattle is there and then, he will pay dues as per provisions of Section 9 of the Act of 2004.
7. Learned counsel for State submits that during pendency of the petition *Panchanama* of taking photograph of the animals was prepared and the said photographs and *Panchanama* is also placed on record. The apprehension of the appellant is without any basis.
8. In submission memo filed by the State a letter dated 10/05/2018 is annexed as document 'A' which is a letter written by Station House Officer, City Kotwali Balod addressed to the Advocate General mentioning that photographs of animals seized under Crime No.139/15 (for which appellant was prosecuted) was taken in presence of witnesses. *Panchanama* is also filed. The animals were identified by the employee of respondent No.4 working prior to 2015. Photographs of animals are also filed.
9. Learned counsel could not point out any reason to disbelieve the documents filed along with submission memo of the State, except to say

that his animals are not there. Change in appearance, seize etc by efflux of long 3 years cannot be ignored. In view of the above facts and circumstances of the case particularly looking into letter, *Panchanama* and photograph, we are not convinced with the submission of the learned counsel for the appellant. We do not find any infirmity in the order passed by learned Single Judge.

10. Looking to the facts and circumstances of the case as also looking to the contention raised by learned counsel appearing for the appellant that he is ready to pay dues as provided under Section 9 of the Act of 2004, this writ appeal is disposed off with a direction to the appellant that he may approach to respondent No.4 and satisfy himself about the presence of cattle there and after depositing the pending dues, he may get the custody of his cattles back from the possession of respondent No.4.
11. However, the appellant is having a liberty to approach appropriate forum by way of filing appropriate application, if he found that his cattle was not in the possession of respondent No.4.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge