IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM :

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.A.No.984 of 2020

1.The District Revenue Officer,
Tiruvallur, Thiruvallur District.

2.The Inspector of Police,
Civil Supplies CID,
Chennai. ...Appellants

Vs

S.Krishna Reddy ...Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 06.07.2020 passed in W.P.No.8897 of 2020.

Prayer in W.P.No.8897 of 2020:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st Respondent to release the Lorry bearing Registration No KA-35-C-3184 seized by the 2nd Respondent on 15.7.2019 to the Petitioner.

For Appellants : Mr.J.Pothiraj,
Special Government Pleader

For Respondent : Mr.K.V.Sajeev Kumar

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

The appellants have raised an interesting question of law before us. This is with respect to the power of the appellants to seize/confiscate a vehicle as against an essential commodity illegally being transported.

2. Learned Special Government Pleader appearing for the appellants submitted that as per the instructions available,

such a power has to be exercised after conducting the enquiry while determining the valuation of the vehicle also.

3. Learned counsel appearing for the respondent/writ petitioner submitted that the Division Bench of this Court has passed orders, based upon which, the learned Single Judge has passed the order. The vehicle in question has been in custody from 2019 onwards pursuant to the registration of the First Information Report. Therefore, the vehicle will have to be released.

4. Section 6(A) of the Essential Commodities Act, 1955 speaks of confiscation of essential commodity. Therefore, we have no difficulty in construing the said provision to hold that the power of seizure followed by confiscation is to be exercised only with respect to the essential commodity alone. To that extent, both the provisos will have to be read with the main provision. Accordingly, the said provision will have to be read for seizure and confiscation which would include the imposition of the payment of amount by way of option in lieu of confiscation at the market price. Hence, the fixation of market price is relatable to the essential commodity alone. Therefore, the power to confiscate and thereafter release the essential commodity in lieu of the market price can only be confined to the said commodity alone and not for the vehicle that is being carried on. Admittedly, such a seizure and confiscation would arise after the registration of the First Information Report.

5. When once a case is registered resulting in First Information Report, the only option available to the appellants is to produce it before the jurisdictional Court. This is for the reason, in Section 6(A) both the main provision and the proviso do not facilitate the release of the vehicle. When once we hold that the appellants do not have the power of release of the vehicle, the consequence is that the vehicle can only be released by the jurisdictional Court. After all, the seizure has been made after the registration of the First Information Report. Thus, in the absence of any power or authority that is being available to the appellants even the reliance made on the instruction dated 21.02.2013 cannot be sustainable insofar any decision with respect to the release of the vehicle is concerned.

6. In such view of the matter, the only remedy open to the appellants, as discussed by us, in the preceding paragraphs is to handover the vehicle in question to the jurisdictional Court. Thereafter, the person aggrieved can file an application before the Court and seek the release of the vehicle. In such cases, the jurisdictional Court can consider the release of vehicle on terms.

7. The decision of the Apex Court relied on has to be seen in its own context. Inasmuch as we have considered the relevant provisions, we have come to the aforesaid conclusion.

8. In the case on hand, the respondent has sufficiently suffered. The First Information Report has been registered on 15.07.2019. Now, more than one and half years have elapsed. The valuation of the vehicle would have undergone substantial change. In such view of the matter, we are not inclined to interfere with the order of the learned Single Judge except indicating the position of law which is obviously binding on the appellants also.

The writ appeal stands disposed of accordingly. No costs. C.M.P.No.12006 of 2020 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

(ssm)

To

1.The District Revenue Officer,
Tiruvallur, Thiruvallur District.

2.The Inspector of Police,
Civil Supplies CID,
Chennai.

+1cc to M/s.K.V.Sajeev Kumar, Advocate Sr.24121

W.A.No.984 of 2020

rp[co]
srg 29/06/2021