



WEB COPY

Crl. R.C.(MD)No.722 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 03.03.2021

Delivered On :15.04.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.722 of 2020

and

Crl.M.P.(MD)No.7730 of 2020

The District Revenue Officer,
Sivagangai.

.. Petitioner/Respondent/
Confiscating Authority

Vs.

M/s.Natasha Agro Foods registered Firm
Represented by its Managing Partner,
J.Syed Sultana Begum .. Respondent/Appellant/Respondent

Prayer : This criminal revision case filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records relating to the order dated 07.02.2020 passed in C.A.No.88 of 2019 on the file of the learned Principal Sessions Judge, Sivagangai, reversing the order, dated 27.06.2019 passed by the District Revenue Officer, Sivagangai vide Na.Ka.No.S6/6584/2019 and to set aside the same and to allow the Criminal Revision.

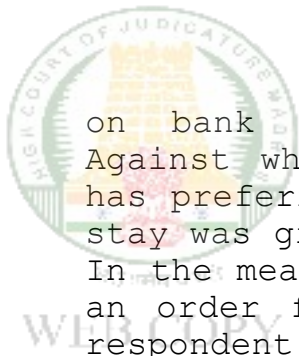
For Petitioner	: Mr.VR.Shanmuganathan Special Government Pleader
For Respondent	: Mr.M.V.Venkateshan

ORDER

This Criminal Revision Case has been filed to call for the records relating to the order dated 07.02.2020 passed in C.A.No.88 of 2019 on the file of the learned Principal Sessions Judge, Sivagangai, reversing the order, dated 27.06.2019 passed by the District Revenue Officer, Sivagangai vide Na.Ka.No.S6/6584/2019 and to set aside the same.

2.On 22.03.2019, during patrolling, a lorry bearing Registration No.TN-63-AU-7782 was found with 380 bags each containing 50 Kgs of PDS rice. The rice was handed over to the Inspector of Police, EOW. A case in Crime No.31 of 2019 was registered against the revision respondent under Section 6(4) of Tamil Nadu Scheduled Commodities (RDCS) Order, 1982 and Section 7(1) (a)(ii) of Essential Commodities Act, 1955. The revision respondent filed a petition before this Court in W.P.(MD)No.8003 of 2019 for the return of the rice bags. That petition was allowed by this Court by directing the District Revenue Officer to release the rice

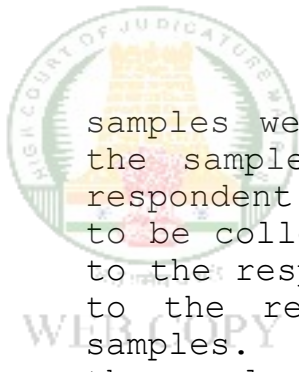
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on bank guarantee of Rs.6,00,000/- (Rupees Six Lakhs only). Against which, the revision petitioner / District Revenue Officer has preferred a Writ Appeal in W.A.(MD)No.544 of 20219, initially a stay was granted till 11.06.2019, subsequently, it was not extended. In the meantime, on 27.06.2019, the District Revenue Officer passed an order for confiscation. Against the confiscation order, the respondent filed a petition before the District Revenue Officer. Against the order of the District Revenue Officer, dated 27.06.2019, the respondent approached this Court in W.P.(MD)No.20578 of 2019 and this Court, by its order, dated 24.09.2019, has directed the revision respondent to approach the District Court and to file an appeal. The respondent herein approached the District Court and filed an appeal in C.A.No.88 of 2019 and the District Judge allowed the appeal and directed the revision petitioner / District Revenue Officer, to release the rice to the appellant / respondent herein within 30 days from the date of order. Against that order, the petitioner/ Revenue Divisional Officer has approached this Court by way of filing this Criminal Revision.

3. On the side of the revision petitioner, it is stated that on 23.03.2019, during the inspection of the Election Squad, vehicle of the respondent was found transporting 19,000 Kilograms of PDS rice to Kerala and the driver has admitted that PDS Rice is transported to Kerala. Then, a case was registered under the Essential Commodities Act. This Court in W.P.(MD)No.8003 of 2019 ordered for the return of PDS rice to the respondent herein on bank surety and liberty was given to the revision petitioner / District Revenue Officer to proceed with the enquiry. Against the order of this Court, the revision petitioner filed a Writ Appeal in W.A.(MD)No.544 of 2019. During the pendency of the proceedings, the District Revenue Officer, after enquiry, has passed an order for the confiscation of the rice. The respondent herein filed a writ petition before this Court in W.P.(MD)No.20578 of 2019 and on the direction of this Court, the respondent herein filed an appeal before the District Court, Sivagangai, wherein, the District Revenue Officer alone was shown as the respondent and the Civil Supplies Department was not impleaded as a party in the case. No opportunity for filing a counter was given to the revision petitioner. The PDS rice belong to the Government and it is meant for distribution among the public, there is no question of returning PDS rice to the respondent herein. The rice was handed over to the Civil Supplies Corporation and the same was supplied to the Public on 14.10.2019 and on 19.10.2019 and the District Judge failed to consider this fact. Since no opportunity was given to the Corporation, the order of the District Judge has to be set aside.

4. On the side of the respondent, it is stated that on an order from a Company from Kerala, the revision respondent was transporting 19,000 Kilograms of boiled rice, which was purchased by the respondent from private Traders. The procedures for collecting



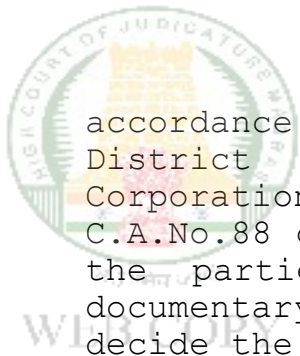
samples were not properly followed by the revision petitioner and the samples were not collected either in the presence of the respondent or in the presence of her staff. Three sample bags have to be collected for analysis and one such bag has to be handed over to the respondent or her staff. No such sample bag was handed over to the respondent or her staff at the time of collecting the samples. The revision respondent has to be issued with a copy of the analysis report. But, no such report was furnished to the petitioner. During the pendency of the Writ Appeal, in W.A.(MD) No.544 of 2019, filed by the revision petitioner, the District Revenue Officer has passed an order for the confiscation of the rice, without considering that the samples were not taken as prescribed by the Act. W.A.(MD)No.544 of 2019 was rightly dismissed by the Court. Still now, the revision petitioner failed to release the rice as directed by this Court. Keeping the rice idle for one year will make the rice worthless for consumption and prayed the rice to be returned back to the respondent.

5.A perusal of the records reveals that the entire rice bags were handed over to the Civil Supplies Corporation based on the orders of the District Revenue Officer. On receipt of those rice bags, the Civil Supplies Corporation distributed the same under the Public Distribution System and the Civil Supplies Corporation was not impleaded as a party to the appeal filed before the District Court. A perusal of the impugned order reveals that only based on the contention put forth by the revision respondent, the District Court has come to a conclusion that there were procedural irregularities sufficient enough to vitiate the confiscation proceedings.

6.No document was marked or perused by the District Judge. The District Court failed to discuss the merits and demerits of the confiscation order. The district Court failed to consider the fact that already the rice seized from the respondent was distributed under the public distribution system and the same rice cannot be returned back to the respondent.

7.The District Court failed to discuss whether the samples are collected in the presence of the staff of the respondent whether the copy of the analysis report was given to the revision respondent, whether there were procedural irregularities sufficient enough to vitiate the confiscation proceedings and failed to discuss whether the rice seized by the revision petitioner was PDS rice or was purchased from private traders. To decide all these issues, a detailed enquiry is required.

8.Though the proceedings before the District Court was an appeal against the confiscating proceedings, the matter involved require a detailed enquiry. In the above circumstances, the matter is remitted back to the district Court for fresh consideration in



accordance with law. Since the rice is alleged to be PDS rice, the District Court is directed to implead the Civil Supplies Corporation as a party. An opportunity for the respondents in C.A.No.88 of 2019 to file written submissions has to be given. Both the parties are permitted to adduce evidence both oral and documentary. After considering the evidence, the District Court can decide the matter in accordance with law.

9.With the above direction, the impugned order is set aside and this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Sessions Judge,
Sivagangai,

2.The District Revenue Officer,
Sivagangai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.V.VENKATASESHAN, Advocate (SR-15777[F] dated 15/04/2021)

Crl. R.C. (MD)No.722 of 2020
15.04.2021

SSS (CO)
KB(26.04.2021) 4P 5C