IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.1932 of 2009

Ajaya Kumar Nayak	....	***Petitioner***
	-versus-	
Sub-Divisional Magistrate, Kaptipada, Udala & others	....	***Opposite Parties***

CORAM: JUSTICE S.PUJAHARI

Order No.	**ORDER** **19.05.2022**
09.	1. This matter is taken up through Hybrid mode.
	2. Heard learned counsel for the parties.
	3. The Petitioner has filed this writ petition challenging the auction sale of his vehicle bearing registration number OR-11-C-8829 by the S.D.M., Kaptikapda, Udala, Opposite Party No.1, vide Annexure-8.
	4. It is stated by the learned counsel for the Petitioner that the vehicle of the Petitioner bearing registration number OR-11-C-8829 was seized by the Police. The matter was reported to the S.D.M, as it was an unclaimed vehicle. He further submits that

the S.D.M has no jurisdiction under Section 457 Cr.P.C. to direct for auction sale of the vehicle of the Petitioner.

4. As it appears the matter was reported to the S.D.M by the Police as it was an unclaimed vehicle. The Petitioner is the registered owner of the vehicle. The S.D.M, without issuing notice to the Petitioner, had auctioned the vehicle of the Petitioner though he has no jurisdiction to auction the said vehicle and directed to deposit the auction price of Rs.60,500/- Therefore, the Petitioner has come to this Court challenging the auction sale of his vehicle to be without jurisdiction.

5. On consideration of the facts and the submissions made, especially the fact that the S.D.M has no jurisdiction for disposal of the vehicle and the present status of the vehicle being not known, it would not be proper to set aside the impugned order, vide Annexure-8. Hence, this Court disposes of the writ petition with a direction to the concerned opposite party that after verifying the ownership of the vehicle, if the name of the Petitioner found place, the auction price so deposited be handed over to the Petitioner with 6% simple

interest over and above the same calculated till date. The aforesaid exercise must be done within three months hence. Thereafter there is no impediment on the part of the R.T.O to transfer the vehicle in favour of the auction purchaser even without consent of the Petitioner, if the ownership of the vehicle has not been transferred to the auction purchaser in the meantime. It is made clear that since the vehicle was not in possession of the Petitioner till date, he shall not be made liable for tax and penalty during the said period but he is liable to pay the tax and penalty for the proceeding years, if the tax and penalty is pending against him. From the aforesaid amount, the tax amount as on due against the Petitioner till the date of seizure of the aforesaid vehicle shall be deducted.

7. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS