

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17085 of 2022

Sunarjaya Pradhan

.....

Petitioner

Mr. Santosh Kumar Mahanty, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. Swayambhu Mishra,
Additional Standing Counsel

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

15.09.2022

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. 2. Petitioner in this writ petition prays for a direction to set aside order dated 10th November, 2021 passed by the Authorized Officer-cum-Assistant Conservator of Forests, Ghumsur North Division, Bhanjanagar, Ganjam-Opposite Party No.3, whereby he refused to release the motorcycle bearing registration No.OD-32-A-3035 (Hero HF Deluxe).
3. 3. It is submitted by learned counsel for the Petitioner that although learned SDJM, Bhanjanagar directed for release of the aforesaid vehicle in Misc. Case No.147 of 2021, but the Authorized Officer-Opposite Party No.3 is sitting over the same and refused to release the said vehicle. Hence, this writ petition has been filed for the aforesaid relief.
4. 4. Mr. Mishra, learned ASC referring to the counter affidavit filed by Opposite Party No.3 submits that confiscation proceeding has already been initiated in respect of the aforesaid vehicle in OR Case No.137T of 2021-22 and the same is pending for consideration awaiting the enquiry report. He further submits

that since the confiscation proceeding has been initiated the vehicle in question should not be released in view of specific bar contained under Section 56(3) of the Odisha Forests Act, 1972 (for short, 'the Act'). Learned ASC however submits that he will instruct the Authorized Officer-Opposite Party No.3 to get the enquiry report at an early date to ensure disposal of the confiscation proceeding in accordance with law.

5. Considering the submissions of learned counsel for the parties and on perusal of record, it reveals that the confiscation proceeding has already been initiated in respect of the aforesaid vehicle. In that view of the matter, vehicle in question cannot be released during pendency of the proceeding under Section 56 of the Act. Thus, the Opposite Party No.3 has committed no error in refusing to release the said vehicle. Since the confiscation proceeding is pending adjudication awaiting the enquiry report, steps should be taken to obtain the same at an early date. Authorized Officer-Opposite Party No.3 is also directed to dispose of the confiscation proceeding at an early date in accordance with law after receiving the enquiry report. Petitioner is also directed to cooperate the Authorized Officer for early disposal of the confiscation proceeding.

6. With the aforesaid observation and direction, the writ petition is disposed of.

7. As requested, a copy of this order shall be handed over to Mr. Mishra, learned ASC for communication and compliance.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge