

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO.18756 OF 2022

Kshirod Kumar Nayak ***Petitioner***

Mr. S.D. Das, Senior Advocate along
with Mr. Haripad Mohanty, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. Suvashish Pattnaik,
Additional Government Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
17.08.2022**

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to release the vehicle bearing Registration No.OD-01-AH-9215 (Bollero Pick-Up).
3. Mr. Das, learned Senior Advocate appearing for the Petitioner submits that the Forest Guard, namely, Tarun Kumar Das, has taken the vehicle of the Petitioner on rent and was transporting 38 numbers of Kasi Plank, when the said vehicle was seized by the forest officials. Accordingly, a confiscation proceeding in O.R. Case No.240 (T) of 2020-21 was initiated on the file of Authorized Officer-cum-Assistant Conservator of Forests, Karanjia Division. The Petitioner had also moved this Court in W.P.(C) No.36627 of 2021 for early disposal of confiscation proceeding, which was disposed of on 6th December, 2021 with a direction to the Authorized Officer to consider the representation of the Petitioner. Accordingly, the confiscation proceeding was disposed of directing

confiscation of the vehicle of the Petitioner along with another motorcycle. Assailing the same, the Petitioner has also filed an appeal under Section 56(2)(e) of the Orissa Forest Act, 1972. It is his submission that pursuant to direction of this Court the Authorized Officer disposed of the confiscation proceeding relying only on the written statement filed by said Tarun Kumar Das, the Forest Guard. Said Tarun Kumar Das being a Forest Guard was not examined in the confiscation proceeding. Thus, the Petitioner did not get any opportunity to cross-examine him and prove that said Tarun Kumar Das has taken the vehicle of the Petitioner on rent. In that view of the matter, the vehicle of the Petitioner should be released pending disposal of the appeal.

4. Mr. Pattnaik, learned Additional Government Advocate submits that since the appeal is pending for consideration, the Petitioner may raise the said ground of challenge in the appeal, which can be considered in accordance with law.

5. Taking into consideration the rival contentions of the parties, this Court without expressing any opinion on the merits of the case of the parties disposes of this writ petition with a direction that the appellate authority while disposing of the appeal should take into consideration the materials available on record and the contentions to be raised by learned counsel for the parties.

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

(K.R. Mohapatra)
Judge

bks