

HON'BLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION No.8955 of 2021

ORDER:

The petitioners filed this writ petition seeking a Writ of Mandamus declaring the confiscation orders of the respondent No.3 passed in Case No.3725/2020/F7 dated 19.10.2020 confirmed by Appellate Authority in Proceedings No.3206/2020/M1 dated 28.01.2021 as illegal, null, void and arbitrary and consequently direct the respondents to release the vehicle i.e. Tractor No. AP 25 R 7023 of the petitioners.

2. Heard Sri K. Durga Prasad, learned counsel for the petitioners and learned Asst. Government Pleader for Forests appearing on behalf of the respondents 1 to 4.

3. Learned counsel for the petitioners submits that the petitioner No.2 is the owner of Tractor No. AP 25 R 7023 and forest authorities made an allegation against the petitioners alleging that they are clearing the bushes on 14.07.2020 near Eucalyptus plantation area in Compartment No.238 of Jalalpur Reserve Forest, Siddapur shivar of Jalalpur (N) beat, the respondent No.4 and his subordinate staff during patrolling found that the petitioner No.1 is ploughing the forest land in an extent of 1.45 hectares for cultivation and the Forest Section

Officer, Chandoor along with his staff has taken the tractor into their custody and reported that, to encroach the forest land, the petitioner No.1 cleared the bushes and ploughed the forest land of 1.45 hectares valued @ Rs.9,07,700/- (Rupees Nine Lakhs Seven Thousand and Seven Hundred only). He further submits that Forest Section Officer registered POR No.05/041 dated 14.07.2020 under Section 20 (1)(C)(ii) (iii) (iv) (vii) & X of TS Forest Act, 1967 and under Section 2 (15) & 37 of Wild Life Protection Act, 1972 for illegal clearance of forest growth which is equal to (01) Cart Load fuel wood value Rs.622/- in Reserve Forest area. The vehicle bearing No. AP 25 R 7023 was seized and brought to the Office of the respondent No.4. Respondent No.4 has produced the vehicle before the Authorized Officer & Forest Divisional Officer, Nizamabad on 21.09.2020 and requested to confiscate the vehicle to the Government of Telangana.

3.1 He further submits that basing on the report submitted by the respondent No.4, a show-cause notice was issued to the petitioners on 21.09.2020 and conducted enquiry. During the course of enquiry, the petitioners stated that they have not committed any offence, but the report has revealed that the

petitioners have accepted their guilt. Basing on the said report, respondent No.3 passed order dated 19.10.2020 confiscating the Tractor No. AP 25 R 7023 and handed over to the Government. Questioning the said confiscation order, the petitioners have filed appeal before the Appellate Authority/respondent No.2. The Appellate Authority without considering the grounds raised by the petitioners in the appeal, simply rejected the appeal on the ground that confiscation order has already been passed and the appeal has no substance or merit.

3.2 The learned counsel for the petitioners vehemently contended that the Appellate Authority without considering the grounds raised by the petitioners mechanically rejected the appeal without giving any reasons much less valid reasons and the same is contrary to the settled principles of law.

4. *Per contra*, the learned Asst. Government Pleader for Forests contended that the Primary Authority as well as Appellate Authority rightly passed the order. There is no illegality and irregularity in the impugned orders.

5. Having considered the rival submissions made by the petitioners and the impugned order dated 28.01.2021 passed by the respondent No.2 confirming the order passed by the respondent No.3 dated 19.10.2020, it appears that the Appellate Authority had rejected the appeal only on the ground that in Para No.5 of the appeal, the petitioners mentioned that the confiscation orders have not yet finalized, though confiscation orders have already been passed by the respondent No.3 on 19.10.2020 and that the petitioners in their appeal have misrepresented the fact to the Appellate Authority that Authorized Officer has not yet finalized. On the said ground only the appeal was rejected without considering the contentions of the petitioners though the petitioners filed the appeal questioning the very same confiscation proceedings passed by the respondent No.3 dated 19.10.2020. During the course of hearing, learned counsel for the petitioners submits that by mistake of fact, the petitioners inadvertently mentioned in the appeal that confiscation orders have not yet finalized though the petitioners have filed the appeal before the Appellate Authority questioning the very same confiscation order dated 19.10.2020. He further submits that pursuant to the interim

order granted by this Court dated 08.04.2021 the respondents released the vehicle.

6. In view of the same, without going into the merits of the case, the impugned order passed by the respondent No.2 in appeal Proceedings No.3206/2020/M1, dated 28.01.2021, is set aside and the matter is remitted back to the respondent No.2 to pass orders afresh after giving opportunity to the petitioners in accordance with law, within a period of four (04) months from the date of receipt of copy of the order.

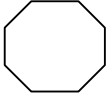
7. Accordingly, the writ petition is allowed. There shall be no order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE J. SREENIVAS RAO

23rd February, 2023
Skj

HON'BLE SRI JUSTICE J. SREENIVAS RAO



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Date : 23-02-2023

Skj