IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.4 of 2020
In
Civil Writ Jurisdiction Case No.13536 of 2018

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1. Shiv Shankar Prasad S/o Late Chandreshwar Prasad, Ward No. 05, P.O. and P.S.- Sursand, Dist-Sitamarhi (Bihar)
2. Idris Rayn S/o- Shri Saliman Rayn, Ward No. 06, Village- Hnauman Nagar, Baidnathpur Tola, P.O. and P.S.- Sursand, Dist-Sitamarhi (Bihar)
3. Manoj Shah, S/o Shri Vishwanath Sah, Village and Post- Sursand, Dist-Sitamarhi (Bihar)

... ... Petitioners

Versus

1. The Union of India through the Commissioner of Customs (Prev), Patna, 5th Floor, Kendriya Rajaswa Bhawan, Bir Chand Patel Path, Patna-800001
2. The Assistant Commissioner, Customs (Prev) Division, Muzaffarpur, 2nd Floor, Customs Building, Imlichatti, Muzaffarpur-842001
3. The Superintendent, Land Customs Station, Bhittamore, Dist-Sitamarhi (Bihar)
4. The Inspector, Land Customs Station, Bhittamore, Dist-Sitamarhi (Bihar).

... ... Opposite Parties

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Appearance :

For the Petitioner/s	:	Mr. Amit Pandey, Advocate
For the Opposite Party/s	:	Mr. S.D. Sanjay (ADSG)
For the Custom	:	Mr. Anshuman Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 26-04-2024 Heard learned counsel for the petitioners and learned counsel for the Department of Customs.

2. This is an application seeking review of the judgment and order dated 25.11.2019 passed in CWJC No. 13536 of 2018 by which while dismissing the writ petition, this Court has taken note of the submissions of learned counsel for the petitioners that they ought to have been given the benefit of Section 125 of the Customs Act when the ownership of the property is in dispute and after taking note of the said submission, this court observed as under:-

"….Before parting with the judgment, this Court is of the view that if any of the petitioners file an application under Section 125 of the Customs Act, 1962, the Authority concerned will consider the case on merit and will take a decision in accordance with law. ..."

3. Learned counsel submits that from the counter affidavit filed on behalf of the opposite party, it would appear that prior to passing of the judgment, the authorities of the Department of Customs had already released the Zinc Ingot in favor of the highest bidder upon the bid amount of Rs. 1,33,993/- in the E-Auction-cum-Tender No. MSTC/ERO/Customs/30725 dated 25.03.2019 through delivery order dated 25.03.2019. Learned counsel for the petitioners submits that in view of the auction sale having been completed, the remedy available to the petitioners under Section 125 of the Customs Act has been deprived of to the petitioners.

4. So far as the judgment of dismissal of the writ application is concerned, learned counsel for the petitioners does not point out any error apparent on the face of the record.

5. Mr. Anshuman Singh, learned counsel for the Department of Customs, submits that the petitioners had approached this Court by way of a writ petition, challenging the order of confiscation and the order of seizure of the 49 pieces of Zinc Ingots weighing 1021.48 kg evaluated at Rs. 1,94,081/- and the truck bearing Registration No. AS09C/7546 valued at Rs. 2,50,000/-. The petitioners prayed for a direction commanding the authorities to release the goods and the truck in question.

6. It is submitted that on perusal of the judgment of this Court, review of which has been sought for, it would appear that the learned writ court was initially not inclined to entertain the writ application on finding that there is a provision for appeal against the impugned orders but on the insistence of the learned Advocate for the petitioners, the learned writ court considered the submissions and finally having found no merit in the writ application warranting interference with the impugned orders, the writ application was dismissed. It is at this stage that learned counsel for the petitioners claimed that he has remedy under Section 125 of the Customs Act, this Court observed that upon filing of such an application, the authority will consider the same on merit. It is submitted that prior to passing of the judgment, the auction sale had already been conducted but it was not brought to the notice of this Court and the same was not a matter of record. In such circumstance, if the petitioners are aggrieved by the auction sale, depriving the petitioners from getting redemption of the goods in question, they may apply for an appropriate remedy but that cannot be a ground for review of the judgment of this Court.

7. Having heard learned counsel for the petitioners and the learned counsel for the Department of Customs, we agree with the submissions of the learned counsel for the Customs. No error apparent on the face of the record has been pointed out to us in the judgment of the learned writ court. The fact that the auction sale had already been completed during the pendency of the writ application, but this was not brought to the notice of the Court and in absence of any information to that effect, this Court took note of the submissions of the learned counsel for the petitioners that they would make an application under Section 125 of the Customs Act and then directed that if such an application is filed, the same would be considered. In our opinion, that observation is not on the merit of the case and it will not affect the judgment of the writ court.

8. We find no reason to review the judgment of the learned writ court. It is always open to the petitioners to seek their remedy in accordance with the law.

9. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Partha Sarthy, J)

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