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W.A.No.1203 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.1203 of 2022 and

CMP No.7610 of 2022

1. The Ex-Officio Secretary to Government,
Food and Consumer Protection Department,
Fort St. George, Chennai 600 009.

2. The District Collector, Cuddalore District,
Cuddalore.

... Appellants

Vs.

1. M.Duraisamy

2. L. Jayabalan

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order dated 04.09.2019 passed by this Court in W.P.No.18651 of 2009 and allow the appeal.

For Appellants : Mr.M.Bindran, Addl. Govt. Pleader

For Respondents : No appearance for R1 and R2



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JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This intra-court appeal has been filed by the Department as against

the order passed the learned Single Judge in W.P.No.18651 of 2009, dated 04.09.2019, the impugned order dated 28.02.1997 passed by the authorities concerned and confirmed by issuing G.O.Ms.No.106, Cooperation, Food and Consumer Protection (J1) Department, dated 10.08.2009 were quashed and also the appellants were directed to refund the market value of the rice seized on the date of seizure to the first respondent and also refund a sum of Rs.15,000/- being the cash security paid by the second respondent.

2. The brief facts leading to the filing of the present writ appeal is as follows.

The first respondent, being the licensed Trader in selling paddy and rice, running his business under the name and style of Nivedha Vilas Modern Rice Mill and he had transported 135 bags of rice in a lorry, owned by the second respondent to another licensed trader by name Rahamath Trading Company at Maduranthagam. When the bags were being transported, the Inspector of Police, Civil Supplies Crime Investigation



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Department, on suspicion that the rice bags were transported to Puducherry, without valid documents, had seized the bags. Despite the first respondent produced valid bills and necessary documents issued by the market committee for such transportation, the appellant authorities confiscated the rice and also imposed a fine of Rs.76,500/- on the owner of the lorry and the appeal filed before the appellate authority was also dismissed. Hence, they filed writ petition and it was allowed by the learned Single Judge, as stated supra. As against the order passed by the writ court, this writ appeal has been filed.

3. The learned Additional Government Pleader submitted that, the Inspector of Police, Civil Supplies Criminal Investigation Department, Cuddalore District had seized 135 rice bags along with the lorry, as the rice bags were purported to be transported to Puducherry and a case in Crime No.85/96 was registered on 11.09.1996, as against the owner of the lorry and to that effect, a report was sent to the District Collector, Cuddalore. He further submitted that after conducting detailed enquiry, the District Collector, Cuddalore has passed the order, vide proceedings dated



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28.02.2007, holding that the seized rice bags have to be confiscated to the government and has also imposed penalty of Rs.76,500/- on the owner of the lorry. He also added that since there is no error in the confiscation order, the appellate authority has confirmed the above proceedings issued by the District Collector, vide G.O.Ms.No.106, dated 10.08.2009. However, without considering the case in proper perspective, the learned Judge has passed the above order, which is liable to be set aside.

4. None appeared on behalf of the respondents.

5. We heard the learned counsel for the appellant and also perused the materials on record.

6. The first respondent is the licensed Trader for selling paddy and rice and he is doing the business in the name and style of Nivedha Vilas at Vilamal Village in Tiruvarur District. It is the contention of the first respondent that, during the course of business, he had transported 135 bags of rice to another lincensed trader by name Rahamath Trading company in



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Maduranthagam, along with necessary bills and G.V.R. but it was seized by the appellant/Department, on the way at Reddychavadi Checkpost, Cuddalore Taluk, arriving at a conclusion that it was purported to be transported to Pondicherry Union. Per contra, it is contended by the appellants that the lorry was forcing its entry into Puducherry Union, with 135 bags of rice, without any valid permit and hence, it was seized.

7. The main contention of the appellants in their counter affidavit before the writ court is that, if really the first respondent intended to deliver the rice bags from Thiruvarur to Maduranthagam, they would not prefer the long route via Cuddalore-Villupuram-Tindivanam-Maduranthakam, and they would prefer the short route of Tanjore-Madras Trunk road and hence the above facts clearly shows that the destination was Puducherry only, not Madhuranthakam.

8. The factum of transportation of rice bags, with valid bills and necessary documents is not denied by the appellants, but their only contention is that the goods were intended to transport to Pondicherry



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Union, without any valid permit. However, the said contention is denied by the respondents stating that the goods were transported within the State of Tamil Nadu and not to Pondicherry as alleged by the appellants. After registration of FIR, the case was enquired by the District Collector, South Arcot Vallalar District, before whom, witnesses were examined and documents were also marked. After enquiry, vide proceedings dated 28.02.1997, the District Collector has passed the impugned confiscation order, stating that the rice was transported to Puducherry along with the bills, showing, as it is transported to Madurantakam. The above proceedings was challenged before the appellate authority, however, without making any discussion, the first respondent has passed the stereotype order, confirming the order passed by the District Collector, vide G.O.(Ms) No.106, dated 10.08.2009. The above orders were impugned before the Writ Court.

9. The learned Single Judge, after hearing both side and also perusing the impugned proceedings as well as the government order, as stated supra, has allowed the writ petition, observing as follows.



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" 6. ... On the side of the petitioners, they have examined the Trader from Madurantakam and another Trader from Puducherry, to whom the rice was alleed to have been dispatched. They have categorically stated that the rice was purported to be transported to Madurantakam and not to Puducherry. That apart, the attesting witnesses to the seizure mahazar have stated that they were not aware of the seizure and they were taken to that place and statements were obtained from them by the police. Absolutely, there is no material available on record to show that that the petitioners intended to transport the rice to Puducherry. As already stated above, the lorry was seized only at a check-post near Cuddalore in the State of Tamil Nadu and the rice bags were accompanied by valid documents and there is no evidence to establish that the rice was intended to be transported to Puducherry. Only on assumption, the 2nd respondent had come to a conclusion that the rice was intended to be transported without any document. That apart, the 2nd respondent, appellate authority, without considering none of the grounds raised in the appeal, dismissed the appeal by a cryptic order, without assigning any reason. In the above circumstances, the orders passed by the second respondent and as confirmed by the first respondent are liable to be set aside."

We are in agreement with the above order passed by the learned Single that without any material to prove that the rice bags were purported to be transported to Puducherry, the confiscation order was passed by the second appellant and the same was confirmed by the first appellant by issuing non speaking order. As such, we find no error to interfere with the order passed by the writ court and the appeal is liable to be dismissed as it has no merits.



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10. Accordingly, this writ appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.B.J.)

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