



W.A.(MD).No.705 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
and
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

W.A.(MD).No.705 of 2016
and
C.M.P.(MD).No.4477 of 2016

1.The District Revenue Officer,
Thanjavur.

2.The Inspector of Police,
C.S.C.I.D. Food Cell,
Thanjavur.

... Appellants

Vs.

A.Sheik Mujibur Rahman

... Respondent

Prayer: Writ Appal is filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD).No.13154 of 2012, dated 03.12.2012.

For Appellant : Mr.A.K.Manikkam
Special Government Pleader



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J U D G M E N T

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN, J.**)

This writ appeal has been filed by the Government challenging the order passed by this Court in W.P.(MD).No.13154 of 2012, dated 03.12.2012.

2. The respondent herein was arrayed as accused in Crime No.146 of 2012 on the file of the Inspector of Police, CSCID Food Cell, Thanjavur for the offences under Sections 294(b), 353, 307 of I.P.C., and Section 6(4) of TNSC (RDCS) Order 1982 r/w. Section 7(1) a(ii) of Essential Commodities Act, 1955.

3. According to the investigation agency, the respondent had committed an offence under various sections of I.P.C., and violation of Section 6(4) of TNSC (RDCS) Order 1982 r/w. Section 7(1) a(ii) of Essential Commodities Act, 1955. Hence, the Inspector of Police, CSCID Food Cell, Thanjavur seized the vehicle to initiate proceedings under Section 6 (A)(1) of the Essential Commodities Act. During the pendency of the confiscation proceedings, the respondent filed a writ petition in W.P.(MD).No.13154 of 2012 before this Court seeking interim custody of the vehicle. This Court, by the impugned order, dated 03.12.2012, directed the Inspector of Police to release the lorry with certain conditions. Challenging the same, the present writ appeal has been filed by the Government officials.



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4. According to the Government officials, the vehicle is under the custody of the Government and since the confiscation proceedings have already been initiated, the Court has no jurisdiction to issue order to release the vehicle.

5. As per Section 6(A) of the Essential Commodities Act, 1955, the competent authority has jurisdiction to initiate confiscation proceedings. Once the confiscation proceedings were initiated under the Essential Commodities Act, the writ Court has no jurisdiction to issue order to release the vehicle seized by the authorities as per the law laid down by the Hon'ble Supreme Court in the case of *Abdul Vahab vs. State of Madhya Pradesh* reported in **2004 (4) SCC 129** and in the case of *State of Madhya Pradesh vs. Uday Kumar* reported in **2020 (12) SCC 733**. In view of the above discussion, the order of writ Court to release the vehicle is without jurisdiction and hence, the same is liable to be set aside. The learned Special Government Pleader submitted that on 27.04.2016, this writ appeal was admitted by this Court and interim stay was also granted and the vehicle is in the custody of the department. During the pendency of the writ appeal, the respondent also died.



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6.In the said circumstances, this Writ Appeal is allowed with the following observations:

6.1.The impugned order of the writ Court to grant interim custody of the vehicle to the writ petitioner is hereby set aside.

6.2.It is open to the respondent to complete the confiscation proceedings and proceed further in accordance with law.

No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
26.02.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No

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