IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

SECOND APPEAL NO.246 OF 2024

APPELLANT Ori. Plaintiff & appellant in RCA	:-		Vasant Ramaji Yeole, Aged about 67 yrs, Occ-Agriculturisit, R/o Shirshi, Tahsil-Umred, Dist. Nagpur 441214
			..**VERSUS**..
RESPONDENTS (ori. Defendants)	:-	**1**	The Regional Transport Officer Road Transport Office, Amravati Road, Nagpur-440001
		2	State of Maharashtra Through its Secretary, Transport Department, Mantralaya, Bombay 440022.

Mr. C. B. Dharmadhikari, Advocate for Appellant.
Mr. B.M. Lonare, AGP for the Respondent No.2.

CORAM : ROHIT W. JOSHI, J.
DATE : 06.02.2026

J U D G M E N T :

1) Notice was issued in the present Second Appeal vide order dated 17.04.2025 on the following substantial questions of law:-

> ***(i)*** *Whether detention of subject vehicle made is illegal for want of notice under Rule 18A of the Maharashtra Motor Vehicle Tax*

Rules,1959?

(ii) *When the amount of tax payable by the Appellant was not quantified and the Appellant had issued a letter showing his readiness to make payment of arrears of payment of tax payable by the erstwhile owner, can it be said that Appellant was not willing to make payment of arrears of tax ?*

(iii) *Are the findings in this regard recorded by the learned Tribunal perverse ?*

2) The order indicated that the appeal may be heard finally at the stage of admission.

3) Heard finally with consent of respective advocates.

4) The controversy in the present Second Appeal pertains to detention of a vehicle, being a truck bearing RTO Registration No. MH-G-7397, which was purchased by the appellant/original plaintiff from one Smt. Vimalkumar Kumkumchand Modi for an amount of Rs.1,80,000/-. It is not in dispute that the plaintiff submitted TTO Form to the Regional Transport Officer (RTO) on 19.08.1989 for registration of the vehicle in his name and that the truck was taken to the RTO office on 03.11.1989. It was found that taxes with respect to the said vehicle were not paid for period from 01.12.1983 to 08.01.1985.

5) It is the case of the plaintiff that although he was ready to pay the arrears of tax, the amount of tax was not quantified and the vehicle was wrongly seized on 03.11.1989. The plaintiff had filed a petition being Writ Petition No.3331 of 1989, seeking directions to release the vehicle. Pursuant to order dated 16.03.1990 passed by this Court, the vehicle was released on 02.04.1990 after receiving payment of arrears of tax with interest from the plaintiff.

6) The plaintiff thereafter, filed a suit for damages against the present respondents/defendants claiming that the vehicle was wrongly detained for a period of 151 days from 03.11.1989 to 02.04.1990. The suit which was registered as Special Civil Suit No.66/1991 was initially decreed ex-parte vide judgment and decree dated 14.09.2000. Application for setting aside ex-parte decree was passed by the defendants being MJC No.306/2006 was allowed vide order dated 28.11.2015 and the suit was thereafter contested on merits.

7) The civil suit came to be dismissed vide judgment and decree dated 07.02.2018 passed by the learned Second Joint Civil Judge, Senior Division, Nagpur. The First Appeal preferred by the present appellant, being Regular Civil Appeal No.224/2018, was also dismissed vide judgment and decree dated 18.09.2023 passed by the learned District Judge-15, Nagpur. These concurrent decrees are subject matter of challenge in the present Second Appeal.

8) Mr. Dharmadhikari, learned Advocate for the appellant, contends that the vehicle was seized on account of failure to clear the arrears of tax. He contends that the authority has purportedly exercised powers under Section 12-B of the Maharashtra Motor Vehicles Tax, Act 1958. He further contends that procedure for seizure of vehicle is provided under Rule 18-A of the Maharashtra Motor Vehicles Tax Rules, 1959. He further contends that in cases where tax payable against a motor vehicle has remained unpaid for a period of 30 days or more, the authorized officer is competent to seize the vehicle and detain it. He, however, contends that in order to exercise the said power of seizure and detention, the authorized officer must pass an order in Form DA appended to the said Rules as per the mandate of Rule 18-A of the Rules. The contention of Mr. Dharmadhikari is that on 03.11.1989, when the vehicle was taken to the RTO office for completing formalities of transfer and it was realized that there were arrears of tax, the plaintiff was ready and willing to deposit the arrears, however the same could not be deposited since the arrears were not quantified. He further contends that admittedly on 04.11.1989, the plaintiff had issued a letter to the concerned officer showing intention to clear the arrears of tax. Receipt of the said letter is admitted in the written statement and the same is also exhibited during the course of the evidence. He further contends that since procedure contemplated by law is not observed the detention of vehicle is clearly illegal and unauthorized, warranting payment of damages.

9) Per contra, the learned AGP supports the reasons recorded by both the learned Courts in dismissing the suit. He contends that the burden of providing illegal detention of the vehicle was on the plaintiff and he has miserably failed to discharge the same. He further contends that except for issuing a letter dated 04.11.1989, the plaintiff did not take any proactive step for depositing the admitted arrears of tax.

10) I have perused the pleadings, depositions and the exhibited documents produced for perusal by the learned Advocates. I have also perused the reasons recorded by the learned Courts in the judgments.

11) Perusal of the written statement will indicate that the defendants have not made any statement that an order in Form DA as contemplated under Rule 18A was passed and served on the plaintiff. Although a communication dated 15.11.1989 is stated to be issued to the registered owner of the vehicle, the said communication is not an order under Form DA. It will also be pertinent to state that Rule 18A contemplates that Order under Form DA can be served either on the registered owner or the person in possession or control of the vehicle. It is not in dispute that the plaintiff had purchased the vehicle from its registered owner and had also submitted TTO Form for transfer of the vehicle on 19.08.1989. The vehicle was brought by the plaintiff to RTO office for completing formalities of registration of transfer. The plaintiff was certainly in control and in possession of the said vehicle. Order under Form DA, therefore, could be served on the plaintiff. Such order is neither passed nor served on the plaintiff. In the absence of an order under Form DA and service thereof on the plaintiff, seizure and detention of the vehicle is clearly done in breach of the mandate of Rule 18-A. The seizure is, therefore, clearly illegal.

12) In view of the above, in the considered opinion of this Court, both the learned Courts have clearly erred in recording that plaintiff had failed to prove that the vehicle was illegally seized and detained. It is well settled proposition of law that when a law contemplates a particular thing to be done in a particular manner, it should be done in that manner alone or should not be done at all. The burden of showing compliance of statutory provisions was squarely on the defendants which they have failed to discharge.

13) In view of the aforesaid, substantial question of law No.I is answered in favour of the plaintiff and against the defendants. It will be pertinent to mention that the defendants had come up with a specific case in the written statement that unless the arrears of tax were cleared, they could not release the vehicle and therefore the vehicle was seized and detained. However, although there is a reference to Rule 18A in the written statement. There is no reference to any order passed by the defendants in Form DA or service thereof upon the plaintiff or the registered owner.

14) Having regards to the letter issued on 04.11.1989 showing readiness to deposit the arrears of tax coupled with the conduct of the plaintiff in immediately approaching this Court by filing a petition, showing readiness to clear the arrears of tax and get the vehicle released, the findings recorded with respect to intention of the plaintiff to make payment of arrears of tax is clearly perverse. The substantial question of law at Sr. No.II and III also deserve to be answered in favour of the appellant/plaintiff.

15) It is not in dispute that pursuant to the earlier decree passed by the learned Trial Court, which was subsequently set aside on an application for setting aside ex-parte decree, the defendants have paid the amount of compensation as determined by the learned Trial Court in the first round of litigation. The damages are quantified at the rate of Rs.400/- per day. The truck in question was a commercial vehicle. In the written statement the defendants have not disputed the quantum of compensation that was claimed by the plaintiff. A period of around 35 years has lapsed since the date of filing of the suit, therefore this Court is not inclined to remand the suit to the learned Trial Court for determining the amount of compensation. It is held that the plaintiff is entitled to receive compensation at the rate of Rs.400/- per day with interest at the rate of six percent per annum as was earlier awarded by the learned Trial Court vide judgment and decree dated 14.09.2000.

16) Second Appeal is therefore **allowed** in the following terms:-

I. Judgment and decree dated 07.02.2018 passed by 2nd Joint Civil Judge, Senior Division, Nagpur in Special Civil Suit No.66/1991 and judgment and decree dated 18.09.2023 passed by the District Judge-15, Nagpur in RCA No.224/2018 are quashed and set aside.

II. Defendants in Special Civil Suit No.66 of 1991 (respondent Nos.1 and 2 in the present appeal) are liable to jointly and severally pay amount of Rs.60,400/- to the plaintiff (appellant in the present appeal) with interest at the rate of six percent per annum from the date of filing of suit till its realization.

(ROHIT W. JOSHI, J.)

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