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**(1996) 03 MAD CK 0057**

**In the Madras High Court**

**Case No : Writ Petition No. 11271 of 1995**

District Forest Officer and Authorised Officer

APPELLANT

Vs

Krishnaveni Ammal and others

RESPONDENT

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**Date of Decision : 06-03-1996**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (1996) CriLJ 3544**

**Hon'ble Judges : A.R. Lakshmanan, J**

**Bench : Single Bench**

**Advocate : R.M. Kannappa Rajendran, Addl. Govt. Pleader Forests, for the Appellant; T. Murugamanickam, for the Respondent**

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## **Judgement**

A.R. Lakshmanan, J.—By consent of both parties, the main writ petition itself is taken up for final hearing.

2. Heard Mr. R. M. Kannappa Rajendran, learned Additional Government Pleader (Forests), for the petitioner and Mr. T. Murugamanickam, for the first respondent.

3. The writ petition has been filed by the District Forest Officer and Authorised Officer, Salem Division, to call for the records in Criminal A. No.

14 of 1994 on the file of the second respondent-District and Sessions Judge, Dharmapuri at Krishnagiri, dated 22-11-1994 and to quash the same.

4. On 19-12-1992 at Ajjampatty Reserved Forest of Shervaroys North Range, one Benz Lorry bearing Registration No. TDW 3155 was found

illegally transporting sandalwood weighing 1180 kilogram worth about Rs. 2,79,500/-. The Ranger, has seized the vehicle and registered a case in

UD.STOR. No. 197/92 under S. 21(d)(e)(f) and 35 and 36 A&E of the Tamil Nadu

Forest Act, 1882 and under Rules 3 and 7 of the Tamil

Nadu possession Rule, 1970. The seized vehicle was produced before the petitioner for further action. A show cause notice was issued to the first

respondent to offer her explanation as to why the lorry should not be confiscated to the Government, since it was found illegally transporting

sandalwood. On 7-7-1993, she offered her explanation stating that she has no knowledge about her lorry being involved in illegal transport of

sandalwood and that she is a widow aged 55 years remains at home always and does not directly handle the hire business of her lorry and the

driver alone is fully responsible for the alleged transport. She further stated that she neither permitted him to transport the sandalwood nor she had

any knowledge of the same. The petitioner had examined the explanation of her and came to the conclusion that the vehicle was involved in illegal

transport of sandalwood. Hence the vehicle was confiscated to Government under S. 49(A) of the Tamil Nadu Forest (Amendment) Act, 1992.

The owner preferred an appeal to the District and Sessions Judge, Dharmapuri at Krishnagiri, against the order of confiscation passed by the

petitioner herein as Authorised Officer. The learned District and Sessions Judge, allowed the appeal on 22-11-1994 and annulled the order of

confiscation. On obtaining opinion from the Additional Government Pleader (Forests) that this writ petition has been filed by the petitioner

challenging the order of the second respondent-District and Sessions Judge, Dharmapuri at Krishnagiri.

5. This writ petition was admitted by this Court on 22-8-1995 and the first respondent is now represented by Mr. T. Murugamanickam. He raised

a preliminary objection, to the maintainability of the writ petition and in support of his contention, he cited my decision reported in The Regional

Transport Authority, Namakkal Region v. The State Transport Appellate Tribunal, Madras and 3 others, 1994 WLR 316. The learned Additional

Government Pleader submitted that the writ petition at the instance of the petitioner is maintainable. He further contended that the jurisdiction of this

Court can be invoked by the petitioner as he seized the vehicle and passed the order of confiscation. Mr. R. M. Kannappa Rajendran, learned

Additional Government Pleader, further contended that when an order of confiscation of any property has been passed under S. 49(A) or 49(C)

or 49(D) of the Act, the said property or if it is sold, the sale proceeds thereof, as the case may be shall vest in the Government free from all

encumbrances and therefore the Government being the owner of the vehicle, the District Forest Officer is entitled to maintain this writ petition. As

already seen, the District Forest Officer, is only discharging his quasi-judicial function. While discharging such functions, he passed an order of

confiscation, confiscating the vehicle to the State Government. In this case, the order passed by the District Forest Officer was set aside by a

competent Criminal Court. In this case, it could not be said that the personal rights of the District Forest Officer has been infringed by the order of

the appellate authority - the District and Sessions Court at Krishnagiri and therefore a writ can be maintained at the instance of the petitioner. This

apart, the petitioner has not been denied with or deprived of any legal right. He has not sustained any injury to any of his legally protected interests.

He has not been denied with or deprived of any legal right in fact the impugned order does not operate as a decision against him, much less does it

wrongfully affect his title to something. He has not been subjected to a legal wrong. He has suffered no legal grievance. As observed by the

Supreme Court, he has no legal peg for a justifiable claim to hang on. The judgment cited by the learned counsel for the first respondent supra

squarely applies to the facts of this case. In that case, the writ petition was filed at the instance of the Regional Transport Authority on the question

of maintainability and this Court held that the Regional Transport Authority is exercising his power as a quasi-judicial authority and as such he has

no right to maintain the writ petition. He is an authority under the Act to decide whether an applicant is eligible to get permit and if there are more

number of applications for permit, he has to decide, which of the applicants is more suitable for the grant of permit and in doing so, he is deciding

the lis between the rival contenders as an authority under the Act. It is further held that if this order is modified or set aside by the appellate

authority on an appeal filed by the affected party, the appellate authority's order can be agitated further by only a person whose interests and rights

have been affected by the order of the appellate authority, but not by the Regional Transport Authority. This apart to invoke the extraordinary

jurisdiction under Art. 226 of the Constitution of India, the person invoking such jurisdiction should show to the Court that his personal right has

been infringed or affected.

6. In this case, the District Forest Officer, before whom the confiscated vehicle was produced for further action, is the Authorised Officer under S.

49(A) of the Act. As Authorised Officer, he has to issue notice under S. 49(B) of the Forest Act to the person from whom the vehicle was seized,

informing him of the grounds on which he proposed to confiscate it. The Authorised Officer after considering the objections if any raised by the

owner of the vehicle or from the person from whom the vehicle was seized has to pass an order under S. 49(B) of the Act. A revision will lie under

S. 59(C) of the Act against the order of confiscation. Under S. 49(D) of the Act, any person aggrieved by any order passed under S. 49-A or S.

49-C may appeal to the Sessions Judge having jurisdiction over the area in which the property, to which the order relates, has been seized and the

Sessions Judge shall, after giving an opportunity of being heard to the appellant and the Authorised Officer or the Officer specially empowered

under S. 49-C, as the case may be, pass such order as he may think fit, confirming, modifying or annulling the order appealed against. Section 49-

D(2) of the Act says that an order of the Sessions Judge under S. 49D(1) shall be final and shall not be questioned in any Court of Law.

Therefore, the Authorised Officer being the quasi-judicial authority is exercising his power as an authority under the Act. Therefore, as rightly

contended by the learned counsel for the first respondent, that when the petitioner has not been denied with or deprived of any legal right and when

the petitioner has not sustained any injury to any of his legally protected interests, he cannot maintain the writ petition, against the order of the

District and Sessions Judge passed under S. 49-D of the Act. Therefore, the writ petition fails and shall stand dismissed. However, there will be no

order as to costs. Now as the District and Sessions Judge, Dharmapuri at Krishnagiri has allowed the appeal filed by the owner of the vehicle, the

Authorised Officer cannot detain the vehicle any more and they are bound to deliver the same to the petitioner immediately.

7. Petition dismissed.