

(1998) 11 AP CK 0058
In the Andhra Pradesh High Court
Case No : CRP No. 4659 pf 1996

Forest Range Officer, Lankapalli, Khammam District	APPELLANT
Vs	
M.V. Ramana and another	RESPONDENT

Date of Decision : 06-11-1998

Acts Referred:

Andhra Pradesh Forest Act, 1967 — Section 44
Constitution of India, 1950 — Article 227

Citation : (1999) 1 ALD 98 : (1999) 1 ALT 142

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : Government Pleader For Forest, for the Appellant; Mr. K. Suresh Reddy, for the Respondent

Judgement

1. The orders of the District Judge in Forest Appeal No.3 of 1990 dated 29-12-1995 were assailed by the Government in this revision filed under Article 227 of the Constitution of India.

2. Heard both the Counsel.

3. The admitted facts of the case are that the vehicle bearing No.AP 16-T, 282 was confiscated by the Authorised Officer by his order dated 19-4-1990. Aggrieved by the said order the owner of the lorry carried the matter in appeal before the District Judge, Khammam. The learned District Judge reversed the order of the Authorised Officer mainly on the ground that the Authorised Officer has no powers to confiscate the vehicle and such a power vested only in the criminal Court and ultimately released the vehicle by order dated 29-12-1995. That order was assailed in this revision by the Government. This Court while giving notice on admission suspended the orders of the Appellate Court on 12-2-1997, Subsequently the revision was admitted on 4-7-1997.

4. Smt. L Kanakamma, W/o. Krishna Rao, filed a petition seeking permission of the Court to get herself impleaded as Respondent No.2 in the Revision

contending that she purchased the vehicle in question on 2-5-1997 and suddenly the Authorised Officer perhaps under orders of this Court seized the vehicle on 27-2-1998. Having purchased the vehicle for valid consideration it is her case that she is an interested party and she may be allowed to come on record to contest the matter and the said petition was ordered.

5. Now the revision petition has come before me for hearing. As far as the order of the District Judge is concerned, it is an erroneous one and without looking into the provisions and scheme of the Act he came to such a conclusion. A reading of Section 44 of the Forest Act makes it abundantly clear that the Authorised Officer is having ample powers to seize the vehicle, if it is found carrying the forest produce. Hence the order of the appellate Court has to be set aside and it is accordingly set aside.

6. The question now that falls for consideration is whether to remit the matter for fresh disposal or dispose of the Revision Petition itself here, as the appellate authority has not bestowed its attention on the aspect whether the owner of the vehicle was having knowledge of the use of the vehicle for committing a forest offence or not. Mr. Suresh Reddy brought to my notice that the Authorised Officer categorically held that there was no evidence on record to prove that the owner of the vehicle is having knowledge of the use of the vehicle for committing a forest offence and this Court has categorically held that when once it is proved that the owner of the vehicle is not having knowledge the matter has to come to an end. The learned Government Pleader relied on a decision of the Supreme Court reported in State of M.P. Vs. Suresh Kumar, , and contended that as it was not the case of the owner that the vehicle was used in commission of the forest offence without his knowledge and connivance. Hence the matter has to be remanded to the original authority i.e., the Authorised Officer for conducting a fresh enquiry.

7. From the facts of the case I feel it is a vexatious litigation. Admittedly the alleged offence was committed in the year 1989 and the Authorised Officer passed the confiscation order on 19-4-1990 and that order was set aside by the District Judge only on 29-12-1995. Subsequently the Authorised Officer has not taken sufficient care for filing this revision petition within reasonable time. This revision petition was filed after a long lapse of time and for the first time this Court gave notice before admission only in February, 1997 and suspended the order of the appellate authority under the Forest Act. By the time the order is communicated the vehicle was sold to the 2nd respondent, who purchased the same for a valid consideration. Hence, at this stage, i. e., nearly after ten years of committing of the alleged offence, I am not inclined to remand the matter back for fresh enquiry, more so in the light of the findings of the Authorised Officer that there is no evidence on record about the knowledge of the owner of the vehicle in committing the offence. Hence, though I find merit in the legal contention raised by the learned Government Pleader, on facts I am not inclined to interfere with the order of release of the vehicle passed by the District Judge.

8. In the light of the above orders passed by me the Authorised Officer is directed to release the vehicle forthwith.
9. The civil revision petition is dismissed accordingly.