

(2010) 02 MAD CK 0133

In the Madras High Court

Case No : Writ Petition No. 2799 of 2010 and M.P. No. 1 of 2010

P. Udhaiyakumar

APPELLANT

Vs

The State of Tamilnadu and Others

RESPONDENT

Date of Decision : 16-02-2010

Acts Referred:

Citation : (2010) 02 MAD CK 0133

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : S. Udaya Kumar, for Karan and Uday, for the Appellant; K. Rajasekar, Government Advocate (Forest), for the Respondent

Final Decision : Allowed

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner and the learned Counsels appearing for the respondents.

2. This Writ Petition has been filed praying for a Writ of Mandamus to direct the respondents to issue Form-III permits to the petitioner, at the

Forest Department Check Posts, on the Tamil Nadu - Karnataka border, when the Petitioner's consignment of Silver Oak timber logs are

transported from the State of Karnataka, into the State of Tamil Nadu, by the Petitioner, along with the necessary valid documents, except the

transport permit.

3. At this stage of the hearing of the Writ Petition, it has been submitted by the learned Counsel appearing for the petitioner that a number of orders

had been passed by this Court, relating to the issues arising for consideration in the present Writ Petition. One such order has been made, in Babu

Timbers v. State of Tamil Nadu reported in (2007) 3 MLJ, wherein, paragraphs

8,9 and 10 of the said order read as follows:

8. It is admitted position that both in Karnataka and in Tamil Nadu silver oaks are no longer in the scheduled item. While in Karnataka Form II

permit is not granted because it has been removed from the Timber Transit Rules, it is only in the State of Tamil Nadu, Rules still contain their

requirements of Forms II and III permits. While the impact of Forms I and II is to have the details of the timber quantity and the name and

residence of the person to whom the pass is granted and when it was obtained to what place it is being removed, the route time allowed, including

the vehicle registration number, the way permit is only a consequential document in Form III. Therefore, the idea of exchanging Form II with Form

III is only to have the details recorded from the place of origin so that the way permit can be granted. If the authorities of the Government of

Karnataka have stopped issuing Form II permit, that does not mean that the Tamil Nadu officials will seek for the production of the said permit as

a pre-condition to issue Form III. This will unnecessarily create a bottleneck and as stated by the petitioner, it involved unnecessary expenditure

and time and it will frustrate the very timber trade resulting in a source of corruption. Therefore, if the authorities want to issue Form III with the

particulars which are to be found in Form II, it can be gathered from the other documents produced along with the lorry if the timber is transited.

They can verify the same and issue the way permit instead of seeking for a certificate under Form II which obviously the petitioners cannot

produce. Even the Tamil Nadu Government officials themselves cannot issue those certificates as the origin of timber is from elsewhere and no

person will certify them as a proper proof of other supporting documents. If the understanding of the respondents is that Form II is pre-requisite

for issuing Form III permit, then they should also spell out as to how the TamilNadu State Officials are competent to issue Form II in respect of a

timber whose origin is not from this state but from some other States.

9. The Stand taken by the respondents is that necessarily they will have to apply to the State authorities for a Form II permit. Even then, the

question will be such a permit can be issued in Form II only depending upon the materials and documents produced by the timber merchants and

sent along with the lorry in which the transit is being made. If all those materials

are available, depending on the strength of the very same

documents, the respondents can issue Form III without insisting upon Form II, which has become an empty formality. Further, it will also reduce

the bottleneck created in transit. Therefore, the prayer made by the petitioners is reasonable and is consistent with the Rules made by the State and

the Rules are also not under challenge. The Rules of procedure is only a hand-maid and it cannot become an obstacle in the smooth transit of

passage of goods. The authorities have spent more energy on the form than on the substance of verification of the contents of the goods

transported.

10. In view of the same, the writ Petitions are entitled to succeed and a direction is issued to the respondents to provide Form III to the petitioners

to transport Silver Oaks from Karnataka to Tamil Nadu at various checkpoints in Tamil Nadu border if the petitioners accompany Silver Oak

timber logs with valid documents except the transport permit issued by the State of Karnataka. But the documents should provide for information

that are required under Form II for issuing necessary permit. The writ petitions shall stand allowed.

It has also been stated that a Division Bench of this Court, by its order, dated, 05.03.2008, made in Writ Appeal Nos. 958 to 963 of

2007(batch), had also confirmed the said order, dated 24.04.2009.

In view of the orders passed by this Court and in view of the order passed by the Division Bench, as noted above, this Writ Petition stands

allowed. No costs. Consequently, connected Miscellaneous Petition is allowed.