

(1996) 02 MAD CK 0068

In the Madras High Court

Case No : Writ Petition No. 1888 of 1996

The District Forest Officer, Attur (Salem District) and another
Vs
A.V. Ravichandran and another

APPELLANT
RESPONDENT

Date of Decision : 19-02-1996

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Tamil Nadu Forest (Amendment) Act, 1992 — Section 49

Citation : AIR 1996 Mad 301 : (1996) 1 CTC 334 : (1996) 1 MLJ 603

Hon'ble Judges : AR. Lakshmanan, J

Bench : Single Bench

Advocate : Kannappa Rajendran, for the Appellant;

Judgement

AR. Lakshmanan, J.—This writ petition has been filed by the District Forest Officer, Attur, Salem District and the Forest Range Officer,

Vazhappadi Range, Attur Division, to quash the order in Criminal Appeal No, 39 of 1995, dated 4-12-1995 on the file of the Principal Sessions

Judge, Salem.

2. According to the petitioners, the vehicle matador tempo van bearing registration No. TN-27-1837 was found illegally transporting sandalwood.

The vehicle, along with the sandalwood, was seized on 8-12-1993 by the second-petitioner herein. Twenty-three persons were arrested in this

connection, The second-petitioner, who seized the vehicle, registered a case in S.T.O.R. No. 101 of 1993 dated 8-12-1993 and produced the

vehicle, along with the sandalwood, before the then authorised officer and Deputy Conservator of Forests (District Forest Officer), Attur Division,

as per S. 49-A of the Tamil Nadu Forest (Amendment) Act, 44 of 1992. The Forest Officer has returned the vehicle and sandalwood to the

second-petitioner for safe custody and the 23 accused persons were produced before the Judicial Magistrate No. III, Salem by the second-

petitioner and they were remanded to judicial custody. The Regional Transport Officer, Salem, by way of reply to the letter sent by the petitioners,

has informed that the registered ownership of the vehicle stands in the name of the first-respondent A. V. Ravichandran. On"" receipt of the reply

from the Regional Transport Officer, a show cause notice under S. 49-A of the Tamil Nadu Forest (Amendment) Act, 44 of 1992, was issued to

the vehicle owner in S.T.O.R. No. 161 dated 23-12-1993. The first-respondent submitted his reply on 3-1-1994. A show cause notice was also

issued to the financier of the above vehicle, namely, M/s. South Indian Bank Limited, Salem, and they also submitted their reply on 1-7-1994. On

a perusal of the connected records and explanation offered, the Forest Officer came to the conclusion that the first-respondent has not proved his

innocence about the illegal transport of sandalwood in the van belonging to him. Hence the vehicle, along with the sandalwood, has been

confiscated to the Government by the authorised officer in his proceedings dated 12-1-1995. The first-respondent preferred Criminal Appeal No.

37 of 1995 against the order of confiscation and the learned Principal Sessions Judge, Salem, allowed the same and set aside the order of

confiscation and directed to hand over the vehicle to the first-respondent by his judgment dated 4-12-1995. It is against this order, the District

Forest Officer and the Forest Range Officer have filed the Writ Petition to quash the order dated 4-12-1995. According to them, the learned

Sessions Judge failed to consider the case on merits and has committed an error in allowing the appeal filed by the first respondent herein.

3. At the time of hearing, the question of maintainability of the Writ Petition in this Court, was raised. Learned counsel for the petitioners Mr.

Kannappa Rajendran was also directed to go through the judgment of this Court in The Regional Transport Authority, Namakkal Region v. The

State Transport Appellate Tribunal, Madras, 1994 WLR 316. On going through the same, learned counsel for the petitioners today submitted that

the Writ Petition, at the instance of the first-petitioner, namely, the District Forest Officer, is not maintainable. However, he contended that the

jurisdiction of this Court can be invoked by the second-petitioner, namely, the Forest Range Officer, who seized the vehicle and at whose instance

the recoveries were made and confiscation proceedings were further followed.

4. In my opinion, the judgment of this Court (AR. Lakshmanan, J.) reported in *The Regional Transport Authority, Namakkal Region v. The State*

Transport Appellate Tribunal, Madras, 1994 WLR 316, squarely applies to the facts and circumstances of this case. In that case, though the Writ

Petitions were initially filed by the Regional Transport Authority as Civil Revision Petitions under Art. 227 of the Constitution of India, challenging

the order of the State Transport Appellate Tribunal, allowing the appeals preferred against the order of the petitioner therein and granting reliefs to

the respective second-respondent, they were posted on the question of maintainability before the Honourable Mr. Justice Raju, who passed orders

permitting the petitioner to convert the Civil Revision Petitions as Writ Petitions. On the question of maintainability of the Writ Petitions being filed

at the instance of the Regional Transport Authority, this Court held that the Regional Transport Authority is exercising the power as a quasi judicial

authority and 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 applicant 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 an appeal filed by the

affected party, the appellate 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.

5. In the present case, it could not be said that the personal rights of the petitioners have been infringed by the order of the appellate authority,

namely, the Sessions Court, Salem, and therefore, a writ can be maintained at their instance. This apart, both the petitioners have not been denied

with or deprived of any legal right. They have not sustained any injury to any of their legally protected interests, In fact, the impugned order does

not operate as a decision against them, much less does it wrongfully affect their title to something. They have not been subjected to a legal wrong.

They have suffered no legal grievance. As observed by the Supreme Court, they have no legal peg for a justiciable claim to hang on. Therefore, I

am of the opinion that the petitioners are not persons aggrieved and they have no locus standi to challenge the order of the Sessions Court setting

aside the confiscation order and directing to hand over the vehicle to the first-respondent herein. In view of the order setting aside the confiscation

order, the first-respondent would certainly be entitled to have custody of the vehicle. Accordingly, the Writ Petition is dismissed.

6. Petition dismissed.