
(2016) 06 BOM CK 0141
In the Bombay High Court
Case No : Writ Petition (L) No. 978 of 2016

Vijay Subbanna Poojary

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 20-06-2016

Acts Referred:

Citation : (2016) 338 ELT 351

Hon'ble Judges : S.C. Dharmadhikari and Dr. Shalini Phansalkar Joshi, JJ.

Bench : Division Bench

Advocate : S/Shri Prakash Shah with Anil Balani, Ms. Pooja Reddy and Subha Reddy i/by Sagar Kasar, Advocates, for the Petitioner; S/Shri Pradeep Jetly with Jitendra B. Mishra, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

1. We have heard both sides. We have perused all the affidavits on record. In furtherance of our earlier orders, today what we have noted is that Mr. Jetly has been instructed by the concerned officials to inform the Court that the attached motor vehicles would be released to the original owners and in accordance with law. Secondly, he is also instructed to inform that the immoveable properties/ Flats, which are more particularly described at Page 130 of the paperbook, are not attached, as complained, but communications are addressed to the Cooperative Housing Societies not to register any transfer in relation to these Flats in the books of the Society.

2. Mr. Shah, appearing on behalf of the petitioner, complains not about the vehicles and states that their release is taken care of by the earlier direction. He submits that addressing such communications would mean attaching these Flats and depriving the petitioner of his property rights, without any adjudication of the show cause notice and without any proof of the allegations in the show cause notice forthcoming. It is only after an adjudication order and which also can be challenged in accordance with law can all such steps and if at all permissible in law be taken.

3. We do not determine any larger controversy, but from the scheme of the Customs Act, 1962 we find that presently when the show cause notice is yet to be adjudicated and there are mere allegations against the petitioner, can the Revenue address such communications, as are brought to our notice by Mr. Jetly. These communications are not innocuous for they have far reaching consequences in law. The Revenue should refrain from addressing such communications unless the scheme of the enactment in question permits them to do so. Therefore, we clarify that there is no attachment of the immoveable properties, more particularly listed on Page 130 of the paperbook and the petitioner can proceed to deal with them in accordance with law. However, we at the same time clarify that the Revenue's rights and contentions, particularly regarding recovery of any sums towards taxes, if any, and other legal duties shall not be affected by these directions. The writ petition is, therefore, disposed of in these terms.