

उपायुक्त का न्यायालय, कोडरमा

कन्फिस्केशन अपील वाद संख्या-21/2017

राजेश मेहता बनाम राज्य।

29-5-18

आदेश

अपीलार्थी राजेश मेहता, पिता-रामेश्वर मेहता एवं करण कुमार पिता-मधुसूदन मेहता, दोनों साकिन-तैतरियाडीह, पोस्ट व धाना-डोमवांच, जिला-कोडरमा के द्वारा प्राधिकृत पदाधिकारी सह वन प्रमंडल पदाधिकारी, कोडरमा द्वारा पारित आदेश के विरुद्ध में माननीय झारखण्ड उच्च न्यायालय, रांची में WP(Cr.)No.139/2017 दायर किया गया है। प्राधिकृत पदाधिकारी सह वन प्रमंडल पदाधिकारी, कोडरमा द्वारा कन्फिस्केशन केस नं०-18/2016 राज्य बनाम राजेश मेहता में दिनांक 07-07-2017 को पारित करते हुए आदेश में वन विभाग के पदाधिकारियों के द्वारा पकड़ा गया पिकअप वैन जिसका Registration No. JH01-BJ 8915, बोलेरो जिसका Registration No. JH-12 E-5554 है, जिसपर 03 टन माइका (डिबरा) लदा था, को राज्यसात (Confiscate) करने का आदेश दिया गया है।

माननीय झारखण्ड उच्च न्यायालय, रांची में WP(Cr.)No.139/2017 में दिनांक 17-08-2017 द्वारा न्याय निदेश दिया गया है कि :-At the outset it has been submitted by the learned counsel for the petitioners that the confiscation proceeding with respect to the Vehicle bearing Registration no. JH-12 E-5554 has already concluded and he intends to challenge the said order before the appellate forum.

in view of the submission advanced by the learned counsel for the petitioners, this application is disposed of with a liberty to the petitioner to challenge the order passed by the confiscating authority before the appellate forum and if such application is filed the appellate forum is directed to dispose of the same expeditiously.

अपीलार्थी के विद्वान अधिवक्ता के द्वारा माननीय झारखण्ड उच्च न्यायालय, रांची के न्याय निदेश के आलोक में इस न्यायालय में यह अपील वाद दायर किया गया है। उनके द्वारा वाद की सुनवाई कर प्राधिकृत पदाधिकारी सह वन प्रमंडल पदाधिकारी, कोडरमा द्वारा पारित आदेश को Set-aside करने एवं राज्यसात की गई वाहन तथा माइका को Release (मुक्त) करने का अनुरोध किया गया है।

वन प्रमंडल पदाधिकारी, कोडरमा के आदेश में उल्लेखित है कि:- The illegal mining of Mica was done in the Masnodih PF and this illegally mined out Mica was being transported surreptitiously in the night time by the pick up van bearing Registration no. JH01-BJ 8915. The whole story of the opposite party is a concocted one as the vehicle was found coming from the Masnodih PF by the forest patrolling party, where the illegal mining was done. The accompanying Bolero vehicle did not only escorted the illegally quarried Mica carrying pick up van, but also kept on pulling and dragging it when it broke down near Holy Family Hospital. It makes the things clear that the Bolero and the Pick up van both were used in the transportation of illegally dug out Mica from the forest land.

There is no doubt that both the vehicles were involved in the illegal mining of Mica from a notified protected forest land and its transportation, which is a serious forest offence u/s. 33 and 41 of the Indian Forest (Bihar Amendment 1989) Act 1927. Here, we can not ignore the fact that the owner of the vehicle Bolero is a habitual offender, who has also been found to be involved in a similar another offence of illegal Mica mining from the forest land. Hence, the Pick van bearing Registration no. 01-BJ 8915 and Bolero vehicle bearing Registration no. JH-12-E 5554 along with 03 tonnes of Mica loaded thereon is being confiscated in the favour of State.

C.C. No
124
15-8-18
C.C. No
27
3-8-18



अपील की विधान अधिवक्ता के द्वारा वन प्रमंडल परदाधिकारी-सह-प्रतिवेक परदाधिकारी द्वारा परित आदेश को गवाय विरुद्ध बाते हुए उक्त आदेश को निरस्त करने का अनुरोध किया गया है जो निम्नवत् है- Prosecution report is this on 20-08-16 while the forest guard was on patrolling duty at about 3:00 a.m. in Masnodih protected forest then he saw that a vehicle is coming from main heal having registration no. JH-01BJ-8915 which was loaded with Dhibra (Mica scrap) and the same was chased by the aforesaid forest guard and about 25 kilometers away from Masnodih protected forest near Holy Family Hospital some defect took place in the vehicle and was stopped in the meanwhile other Bolero vehicle bearing registration no. JH12E-5554 stopped there and they tried to pull away the loaded aforesaid pickup van after seeing the forest guard and police patrolling party the accused persons who were occupant of the vehicles started fleeing two amongst them were apprehended thereafter the loaded Bolero pickup van along with other vehicle has kept in Domchanch forest Range office for security and it has been asserted that no one produced documents and papers with respect of seized three tones mica scrap.

The Bolero pickup van bearing registration no. JH01BJ-8915 is a commercial vehicle which belongs to petitioner no.2 who on 19-08-2016 had got loaded three tones and three quintal mica scrap (Dhibra) from mica dealer Krishnamurari Mehta under valid invoice pass and challan on payment of Rs.9900/- which was to be carried to Modi Mica Enterprises who is a licensee dealer in Mica having license no. DL 14/11-2016, since the aforesaid dealer Krishna Murari Mehta is not very literate person who anyhow write and read as such in the challan in place of writing pickup van no. JH-01BJ-8915 due to inadvertence and writing mistake had written JH-01JB 8915. It is pertinent to submit here that still JH-01B series are being issued to the vehicles and it has still not reached near JH-01C or D series therefore a vehicle having registration no. JH-01JB as mentioned in the Challan demotes to vehicle no. JH-01BJ-8915.

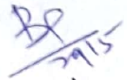
In fact while carrying the mica scrap from Domchanch to Jhumri Telaiya due to mechanical defect one of the rear wheel of aforesaid Bolero pickup van was broken as such vehicle became break down in the night of 19-06-2016 and after arrival of respondent no. 3 the driver of the aforesaid vehicle had duly produced the challan and pass before the forest officials but when the same was not being accepted then the driver of the vehicle gave a telephonic call to petitioner no. 2, Petitioner no.1 is co-villager of petitioner no. 2, hence, he approached in the house of petitioner no. 1 narrating the whole incident and requested to provide his vehicle so that he may go to near Holy Family Hospital and satisfy the forest officials as well as the police personals of Koderma police station by that time who have arrived there and since the petitioner no. 2 asked his relative premchand Kumar Mehta to go with Karan Kumar i.e. petitioner no. 2 with his Bolero passenger vehicle no. JH-12 E-5554 Petitioner no.2 with his Bolero petitioner no. 2 disclosed about valid purchase of mica scrap under valid paper and documents the respondent no. 3 as well as the police personals became furious and put certain demands which was not acceptable to the petitioner no. 2, hence, both the persons were apprehended and were brought to koderma police station, not only this but their vehicles were also brought to koderma police station after bringing crane it is place to mention here that the vehicle of petitioner number.

I bearing registration no. JH-12E-5554 was in mobile condition even then it brought to the police station which is situated about 4 kilometers away from Holy Family Hospital by pulling through crane. Not only this but as stated above one of the wheel of Bolero pickup van JH-01BJ-8915 was not in a mobile condition as such it was also brought to the Domchanch forest Range after rulling the same through crane. This facts will goes to show that the whole case of respondent no. 3 is a cock and bull story which has been purposely created in order to cause unnecessary harassment and humilation on account of none fulfillment of his illegal demand.

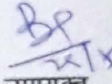
उभय पक्षों के विद्वान अधिवक्ताओं को सुना एवं निम्न न्यायालय के अभिलेख तथा Indain Forest Act का अवलोकन किया गया। बोलरो जिसका रजिस्ट्रेशन नं०-JH-12 E-5554 है। पर कोई अवैध सामग्री नहीं पायी गयी है।

प्राधिकृत पदाधिकारी सह वन प्रमंडल पदाधिकारी, कोडरमा द्वारा कन्फिस्केशन केस नं०-18/2016 राज्य बनाम राजेश मेहता में दिनांक 07-07-2017 को पारित आदेश को निरस्त करते हुए पिकअप वाहन जिसका रजिस्ट्रेशन नं०-JH-01BJ-8915 को माईका सहित राज्यसात करने तथा बोलरो रजिस्ट्रेशन नं०-JH-12E-5554 को विमुक्त करने का आदेश दिया जाता है। पारित आदेश की प्रति निम्न न्यायालय के अभिलेख के साथ प्राधिकृत पदाधिकारी सह वन प्रमंडल पदाधिकारी, कोडरमा को अग्रतर कार्रवाई हेतु भेजे।

लेखापित एवं संशोधित


उपायुक्त, कोडरमा।




उपायुक्त
कोडरमा।