

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

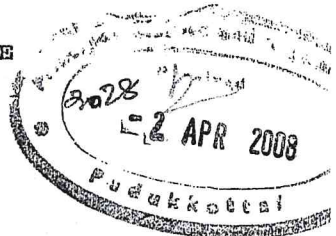
Monday the Seventeenth day of March

Two Thousand and Eight

PRESENT

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MRS. JUSTICE PRABHA SRIDEVAN

W.P.No.22249 of 2007
(Suo Motu W.P)



The Registrar General
High Court, Madras 600 104.

... Petitioner

-vs-

1. The District Judge
All the District.
2. The Principal Judge
City Civil Court, Chennai.
3. The Chief Metropolitan Magistrate
Egmore, Chennai 600 008.
4. The Chief Judicial Magistrate
All the Districts.
5. The State of Tamil Nadu rep. By the
Principal Secretary to Government
Home Department,
Fort St. George, Chennai 9.
6. The District Collector
All the Districts.

... Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue writ of Mandamus directing the respondents 1 to 4 to hand over the properties, either ordered to be confiscated to directed to be refunded to the parties concerned and which was not claimed by the parties, to respondents 5 & 6 or any other authorities appointed by the 5th respondent to deal with such properties in accordance with law.

2 APR 2008

Pudukkottai

ORDER:- This Writ Petition posted for being mentioned on this day upon perusing the petition and the affidavit filed in support thereof the order of the High Court dated 2.7.2007 and upon hearing the arguments of Mr. Raja Kalifullah Government Pleader for the Petitioner the Court made the following order:-

On 02-07-2007, an order was passed directing the respondents 1 to 4 to handover the properties either confiscated or directed to be returned to the parties, which remained unclaimed by the concerned parties to respondents 5 and 6 or any other authorities appointed by the 5th respondent to deal with such properties, in accordance with law. By the same order, the fifth and sixth respondents were also directed to complete the above said process of receiving goods expeditiously.

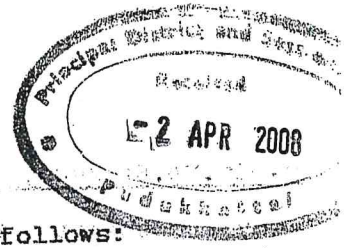
2. The learned Principal District and Sessions Judge, Erode, in the mean time, by his proceedings D.No.157/2007 dated 25-09-2007 requested the District Collector to take possession of the case properties confiscated to the State and to acknowledge the same. In response to this, the District Collector had by his letter reference No.46767/2007 C1 dated 25-09-2007 responded that no administrative instructions have been issued with reference to the dealing of confiscated and unclaimed properties by the Government and therefore, the District Collector requested the learned Principal District Judge to hold over the transfer of case properties until such an order is received from the Government.

3. The Government then passed the Government Order, G.O.Ms.No.1509, Home (Court I) Department dated 25-10-2007 by which an expert committee and an auctioning and formation committee were constituted and procedure was prescribed for confiscated vehicles. Further, while laying down the procedure in Paragraph No.5 of the said G.O., it is laid down inter alia at sub-paragraph No.7 as follows:

"The Judicial authorities concerned shall handover the vehicles to the bidders as per release orders issued by the concerned Unit officers of Motor Vehicles Maintenance Department."

4. This is not in consonance with the order of this Court dated 02-07-2007, by which the fifth and sixth respondents were directed to complete the process of dealing with the case properties expeditiously. Thereafter, the learned Principal District Judge, Erode had brought to the notice of the Registrar General, the difficulty in retaining the confiscated vehicles in court custody until the entire confiscation process is completed. The procedure set down in the above Government Order is quite elaborate, and if the judicial authorities have to wait for the release orders, then the purpose of the order passed in this writ petition on 02-07-2007 would be stultified. In view of the predicament in which the District Judges are placed, the matter has been listed.

AK 00458



5. In these circumstances, it is directed as follows:
 On receipt of the communication from the District Judges who are the respondents 1 to 4 requesting the respective District Collector to take charge of the confiscated properties, the concerned District Collectors shall immediately take charge of the confiscated properties and remove them from the Court campus. Thereafter, the District Collectors shall follow the procedure laid down in G.O.Ms. No.1509 dated 25-10-2007 with regard to auction and disposal.

Sd/
 Asst. Registrar

/true copy/

[Handwritten Signature]
 Sub Asst. Registrar

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To

1. The District Judge
 All the District.
2. The Principal Judge
 City Civil Court, Chennai.
3. The Chief Metropolitan Magistrate
 Egmore, Chennai 600 008.
4. The Chief Judicial Magistrate
 All the Districts.
5. The Principal Secretary to Government
 State of Tamil Nadu
 Home Department,
 Fort St. George, Chennai 9.
6. The District Collector
 All the Districts.

1 cc To The Government Pleader, SR.14969

W.P.No.22249 of 2007

KSK (CO)
 kk 26/3

AK 004

R.Dis.No.64/2008, Dt.3-4-2008 Prl.District Court,Pudukkottai.

Copy communicated to (1) The Addl.District Judge, Spl.Court for E.C. Act Cases, Pudukkottai, (2) The Addl.District Judge, Fast Track Court, Pudukkottai, (3) The Assistant Sessions Judge, Pudukkottai, (4) The Chief Judicial Magistrate, Pudukkottai, (5) The Judicial Magistrates, Pudukkottai/Alangudi/Arantangi, (6) The District Munsif-cum-Judl.Magistrate, Thirumayam/Keeranur, for information and necessary action.

Copy communicated to 'A' Sec., Shr of this court.

Copy to the District Collector, Pudukkottai.

Sd/- K. Jayasambaram
Principal District Judge,
Pudukkottai.

/ t.c.f.b.6/

[Signature]
24/08

S. A. to District Judge,
PUDUKKOTTAI.

5/2
8/4
[Signature]
S.A.

D'NO' 2644/08
17.4.08