

Block No.43 In Plot No.6 Of Guntur vs Assistant Government Pleader For Home ... on 15 July, 2022

Author: Cheekati Manavendranath Roy

Bench: Cheekati Manavendranath Roy

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No.849 of 2022

ORDER:

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This Writ Petition for mandamus is filed to declare the action of respondents - police officials in seizing the godown bearing Block No.43 in Plot No.6 of Guntur, of the petitioner and the two lorries bearing registration Nos. AP 07 TB 9729 and AP 07 TB 8145 in connection with the Crime No.459 of 2020, as illegal and unconstitutional and consequently sought to set aside the proceedings of the seizure.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Home appearing for respondents 1 to 3, learned Assistant Government Pleader for Medical and Health appearing for respondents 4 and 5 and learned counsel for the unofficial respondents 6 to 10.

A case in Crime No.459 of 2020 was registered against the unofficial respondents 6 to 10 for the offences punishable under Sections 272, 273, 420, 328 r/w 34 IPC and under Sections 57(1), 58, 59, 62 of the Food Safety and Standards Act, 2006, by the 3rd respondent - Station House Officer of Pedakakani Police Station. In connection with the said crime, he has seized the tobacco products which are stored in the godown bearing Block No.43 in Plot No.6 and incidentally, he has also seized the said premises i.e., godown in which the tobacco products are stored.

Thereafter, the unofficial respondents have filed a petition under Section 482 Cr.P.C in Criminal Petition No.4101 of 2021 for quash of the said F.I.R registered against them. This Court, by order dated 20.01.2022, has quashed the said F.I.R registered against the unofficial respondents. As regards the return of the property is concerned, the Court has directed the unofficial respondents to file separate application seeking return of the said property i.e., tobacco products.

Therefore, when the F.I.R registered against the unofficial respondents was quashed, the police cannot keep the godown which was seized in connection with the said crime, in their possession. The petitioner herein claims to be the owner of the said godown. Learned counsel for the unofficial respondents 6 to 10 did not dispute the fact that the petitioner is the owner of the said godown. The petitioner is not the accused in the above crime. Even the prosecution did not dispute the fact that the petitioner is the owner of the said godown.

Therefore, in the said facts and circumstances of the case, the Writ Petition is allowed directing respondents 1 to 5 to forthwith deliver possession of the said godown to the petitioner herein by 05.00 P.M., tomorrow i.e., 16.07.2022. No costs.

However, as regards the products that are stored in the godown, the unofficial respondents have to file a separate application for return of the said property in view of the direction given by this Court in Criminal Petition No.4101 of 2021.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

----- JUSTICE CHEEKATI
MANAVENDRANATH ROY Date: 15.07.2022 Note: Issue CC today.

B/o AKN THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY Date: 15-07-2022
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