

GAHC010021642017



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CrI.Rev.P. 140/2017

1:RAJ KUMAR SINGH
S/O SRI HETRM SINGH R/O HENGERBARI, GANESHGURI P.S. DISPUR,
GUWAHATI- 781006 DIST. KAMRUP M, ASSAM

VERSUS

1:THE STATE OF ASSAM and ANR.

2:SMT. ASHAMAYEE DAS
INSPECTOR OF TAXES
UNIT -C
KAR BHAWAN
GUWHATI - 781006.

3:Sudhir Jalan
S/O Lt Gauri Shankar Jalan
R/O 78
SRCB Road
Fancy Bazar
Guwahati-781001
Kamrup(M)
Assam

4:Sumit Jalan
S/O Lt Gauri Shankar Jalan
R/O 78
SRCB Road
Fancy Bazar
Guwahati-781001
Kamrup(M)
Assa

Advocate for the Petitioner : MS.R DEVI

Advocate for the Respondent : PP, ASSAM

**BEFORE
HON'BLE MRS. JUSTICE RUMI KUMARI PHUKAN**

O R D E R

03-06-2019.

Heard Mr. R. Agnihotri, learned counsel for the petitioner. The learned Addl. P.P., Assam appears for the respondent No.1 and the respondent Nos.3 & 4 are represented by the learned senior counsel Mr. G.N. Sahewalla. Today none appears for the respondent No.2, Tax Department.

The present petition has been preferred by the petitioner Raj Kumar Singh praying for zimma of 800 bags of Chikni Supari which was seized in connection with Dispur P.S. Case No.1494/2016, as the learned Court of Addl. CJM, Kamrup (M) at Guwahati vide order dated 25.11.2016, has allowed the I.O. to sale the seized goods in auction to the highest bidder and to deposit the sale proceed in the relevant Govt. Treasury. In this context, the order of the learned trial Court dated 25.11.2016 has been placed into. That apart, all other relevant documents pertaining to registration of the aforesaid case have been annexed with the record.

In a subsequent order dated 28.04.2017, it appears that the I.O. has apprised before the Court regarding the auction that was made by them in consonance with the order dated 25.11.2016 and the learned Court rejected the prayer of the present petitioner to release the seized goods in his favour, in view of the auction undertaken by the I.O.

During the course of hearing of this case, the learned counsel for the petitioner has filed additional affidavit to show that no such auction has taken place and also the fact that the petitioner is not evaded the tax. Certain order of the Addl. Commissioner of Taxes dated 12.06.2017 has been referred and annexed to show that the petitioner has already paid all the relevant tax for the aforesaid article and he is a registered dealer.

Surprisingly the respondent Nos.3 & 4 have filed their affidavit-in-opposition submitting that in fact the present petitioner was a tenant under them and occupied the godown and in the meantime, they have also filed a Title Suit against the petitioner for realization of the arrear rent and eviction of the

tenant and the suit is decreed in favour of the respondent Nos.3 & 4, in Title Suit No.40/2017 and thereafter on execution of the decree, the trial Court has given the vacant possession of the godown to the decree holder i.e. to the respondent No.3 Sudhir Jalan and thereafter the seized 800 bags of Chikni Supari, which was found in the godown, was given to the third person namely Khanin Lahkar, vide Annexure-IV, by the order dated 08.08.2018.

In view of such revealment from the owner of the godown (respondent No.3), the whole affairs become clumsy as to under what circumstance, the said Chikni Supari was seized by the I.O., in the year 2016, if it has now been seized in the year 2018, at the time of eviction process. That apart no clear picture is made out about the auction process by the I.O., whether it is completed or not.

Today the learned counsel for the Tax Department (respondent No.2) did not turn up despite they took time on the earlier occasion to file their response in the matter.

Accordingly the learned counsel for the respondent No.2 is hereby directed to submit the detail report about the seizure and auction etc., having reference to the Title Suit that has been indicted above, by the next date, without fail.

The learned Addl. P.P. will also submit the status report of the case accordingly. As has been sought for, the respondent Nos.3 & 4 are also allowed to file affidavit on the subject, as regards the subsequent affair after the seizure of those Chikni Supari.

List the matter on 28.06.2019.

JUDGE

Comparing Assistant