

PETITIONER:
MALIKARJUNAPPA SHIVMURTHAPPA SINCE DECEASED BY HIS HEIRS.

Vs.

RESPONDENT:
THE STATE OF MAHARASHTRA

DATE OF JUDGMENT 12/12/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1996 SCC (2) 36 JT 1995 (9) 341
1995 SCALE (7) 325

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

It is not in dispute that the truck of the appellant was seized for non-payment of the tax under Motor Vehicles Act and he has still not discharged the liability. The only question is whether the State is vicariously liable for damages for seizure of the vehicle. The trial court though found that the seizure was illegal due to incompetency of the officer to seize the vehicle, refused to grant the relief of damages on the ground that the appellant contributed to the damages since there was neither a stay by any competent court to take delivery of possession of the truck to the appellant nor the appellant made any attempt to take possession of the truck. On appeal, the High Court reversed the finding of the incompetence of the officer to seize the truck. It found that the police officer was competent in law to take possession of the vehicle for the purpose of enforcing the liability to pay tax under Motor Vehicles Act. It concurred with contributory negligence on the part of the appellant. Thus this appeal by special leave against the judgment and decree of the High Court of Bombay in Appeal No.301/69, dated 28.4.1977.

In view of the admitted position that the appellant has not discharged the liability to pay the tax, the obligation still subsists. The seizure for enforcement of the tax liability is, therefore, valid in law. The finding that the appellant had in fact contributed for the damages suffered by him due to latches on his part, namely, neither he attempted to take possession and there is no stay on the delivery of the possession nor make use of the vehicle is also a finding of fact. Under those circumstances, the State is not vicariously liable to pay the damages to the appellant.

The appeal is accordingly dismissed. No costs.

JUDIS