

SUPREME COURT OF INDIA

A. Giridari Lal

Vs.

State of T.N.

(V.N. Khare and S.N. Phukan JJ.)

17.08.2000

ORDER

1. The appellant is an auctioneer for Madras city and Chingleput district in the State of Tamil Nadu under the provisions of Tamil Nadu Pawn Brokers Act, 1943,(hereinafter called the 'Act'). The procedure prescribed by Rule 12(7)(v) relating to auctioning of pawned articles (movables) if not redeemed before its amendment, stood as under:

The auctioneer shall send a copy of the printed catalogue by registered post to the pawner at least a week before the date fixed for the sale.

2. The Rule 12(7)(v) after its amendment, stood as under:

The auctioneer shall send a copy of the printed catalogue by registered post acknowledgement due to the pawner to his last known address at least fifteen days before the sale. If the notice so sent is returned undelivered for some reason or the other, a copy of the catalogue should be served by affixture on a conspicuous place of the house of the pawner in which he is known to reside, or to have last resided or carried on business or personally worked for gain, the auctioneer should also make arrangement to proclaim the contents of the printed catalogue by beat of drum or other customary mode. A certificate of such affixture and of such proclamation should be obtained from the Village Administrative Officer of the village. In respect of Madras city, the certificate should be obtained either from Karnam or from the Village Administrative Officer, as the case may be. In respect of Kanyakumari district and Shencottah Taluk of the Tirunelveli distt. The certificate should be obtained either from the Village Officer or from the Village Assistant or from the Village Administrative Officer, as the case may be.

3. The appellant challenged the validity of amended Rule 12(7)(v) extracted above on the ground of its unreasonableness and being violative of Articles 19 and 21 of the Constitution of India. A learned Single Judge of the Madras High Court struck down the Rule as being repugnant to Articles 19 and 21 of the Constitution insofar as it related to affixture, proclamation and obtaining of certificate.

4. The State of Tamil Nadu filed an appeal before the Letters Patent Bench. The Bench found that the Rule is valid. Consequently, the judgment of learned Single Judge was set aside. Against the said judgment, the auctioneer is in appeal before us.

5. We have perused the Rule. We are in agreement with the judgment passed by the Madras High Court. The alleged of fending Rule pointed out by the learned Counsel for the appellant, in our view, does not in any way affect any of the fundamental rights of the appellant. The said Rule has been framed keeping in view the public interest and inasmuch as the interest of pawner.

6. Learned Counsel for the appellant then urged that the appellant's representation to State Govt. despite the orders of the High Court, has not been decided. If it is so, the State Government may decide the said representation expeditiously. The appellant shall send a copy of the earlier representation along with the certified copy of this order to the Government.

7. For the aforesaid reasons, we do not find any merit in this appeal. It is accordingly dismissed. There shall be no order as to costs.