A

MALIKARJUNAPPA SHIVMURTHAPPA SINCE
DECEASED BY HIS HEIRS

v.

STATE OF MAHARASHTRA

DECEMBER 12, 1995

B

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Torts—Damages—Seizure of motor vehicle for non payment of tax under Motor Vehicles Act—Held, legal—Damages for seizure—Contributory
C *negligence—Vicarious liability of State.*

The truck of the appellant was seized for non payment of the tax under Motor Vehicles Act. 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
D 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 regarding incompetence of the Officer to seize the truck while holding that the police officer was competent in law to take
E possession of the vehicle for the purpose of enforcing the liability to pay tax under the Act. The court concurred with contributory negligence on the part of the appellant. This appeal by special leave had been filed against the judgment and decree of the High Court.

The question raised for determination was whether the State was
F vicariously liable for damages for seizure of the vehicle.

Dismissing the appeal, this Court

HELD : The appellant had not discharged the liability to pay the tax, the obligation still subsisted. The seizure for enforcement of the tax
G liability was, therefore, valid in law. The finding that the appellant had in fact contributed for the damages suffered by him due to laches on his part, namely neither he attempted to take possession and there was no stay on the delivery of the possession nor made use of the vehicle was also a finding of fact. Under these circumstances, the State was not vicariously liable to
H pay the damages to the appellant. [617-F-G]

616

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1680 of A 1979.

From the Judgment and Order dated 28.4.77 of the Bombay High Court in A. No. 301 of 1969.

V.N. Ganpule and Ms. J.S. Wad for the Appellants.   B

D.M. Nargolkar for the Respondent.

The following Order of the Court was delivered :

It is not in dispute that the truck of the appellant was seized for C 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 D 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 E 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 F 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 G 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.

R.A.   Appeal dismissed.