

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1885 of 2015

C.Thambiappan

... Petitioner

Vs

1. The District Collector
Office of the Collectorate,
Nagapattinam.
2. The Revenue Divisional Officer,
Nagapattinam. Respondents

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the second respondent vide its proceedings dated 18.11.2014 vide Na.Ka.No.5453/2014/A2 and quash the same.

For Petitioner : Mr.V.Karthikeyan

For Respondents: Mr.T.N.Rajagopalan, Spl.G.P.

ORDER

Heard the learned counsel for the petitioner and Mr.T.N.Rajagopalan, learned Special Government Pleader for the respondents.

2. This writ petition has been filed by the petitioner challenging the proceeding dated 18.11.2014, in and by which, the second respondent has seized the vehicle of the petitioner for illicit transportation of sand.

3. Learned counsel for the petitioner would submit that the petitioner engaged in prawn culture, purchased sand in bulk quantity from government authorised quarries and stored near the farm. In order to avoid damage to the pond during rainy season the sand is purchased and transported with all the required transport permits. The learned counsel further submits that without enquiring the petitioner and also not even verifying the documents produced by the petitioner, the respondent has seized the vehicle, which is illegal and unsustainable. Further the respondent not even specified the

quantum of penalty to be paid. On the other hand, directed the petitioner to pay the cost of the sand which was already paid to the government quarry. Hence, the learned counsel prayed to set aside the order.

4. The second respondent filed a counter affidavit wherein it is stated that the trip sheet produced by the petitioner had been collected from some other person and there is no permission granted to store minor and minerals in large scale. Hence, he sought to dismiss the writ petition.

5. I have considered the rival contentions.

6. Since the impugned order has no specification with regard to the penalty to be paid, this Court is inclined to set aside the same. Accordingly, the impugned order is set aside and the matter is remitted back to the authority for fresh consideration so as to decide the quantum to be paid towards penalty. The respondent is directed to pass appropriate orders on merits, after affording due opportunity to the petitioner. Till passing of such final order, I am of the view that there is no justifiable reason to retain the vehicle. Hence, there will be a direction to the respondent to release the vehicle forthwith. It is made clear that once an order is passed or a direction is issued by the authority for production of the vehicle, the petitioner is directed to produce the vehicle without fail and the same shall not be alienated or encumbered. In case of any default, it is open to the authority to proceed further. With the above observation, this writ petition is disposed of. No costs.

smi

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector
Office of the Collectorate,
Nagapattinam.
2. The Revenue Divisional Officer,
Nagapattinam.

+ 1 cc to Mr.V.karthikeyan, Advocate SR 41711

+ 1 cc to Govt.Pleader SR 42058

gj(co)
prk18/8

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