

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.33974 of 2016 and WMP.No.29318 of 2016

S.M.Mani Gounder

..Petitioner

/vs/

1.The District Collector,
Villupuram District,
Villupuram.

2.The Revenue Divisional Officer,
cum Executive Magistrate,
Villupuram Division,
Villupuram, Villupuram District.

3.The Inspector of Police,
Vanoor Police Station,
Vanoor Taluk, Villupuram District.

..Respondents

Pvayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorarified Mandamus, to call for the records of the proceedings of the 2nd respondent herein in Na.Ka.A4/5044/2016 dated 08.09.2016 and quash the same and further to direct the respondents herein to release the petitioner's vehicle bearing Reg.No.TN 31 D 0937.

For Petitioner : Mr.S.Lakshmanasamy

For Respondents : Mrs.M.E.Rani Selvam, AGP

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O R D E R

Heard Mr.S.Lakshmanasamy, learned counsel appearing for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader appearing for the respondents. By consent, the writ petition is taken-up for final disposal.

2. The petitioner was before this Court for the same relief, wherein the petitioner sought for a direction to release the vehicle bearing Reg.No.TN- 31-D-0937. The vehicle has been detained on the allegation that it was illicitly transporting sand. When the petitioner filed earlier a writ petition in W.P.No. 28407 of 2016 praying for a direction to release the vehicle, this Court passed an order dated 26.08.2016 by issuing the following directions to the second respondent.

"3. Considering the facts and circumstances of the case, there will be a direction to the second respondent to consider the petitioner's representation dated 03.08.2016 and verify the documents produced by the petitioner namely, the sale slip issued by the licensee at the stock yard dated 27.07.2016 and the sales invoice dated 27.07.2016 and if satisfied, the authority may pass appropriate orders for release of the vehicle within a period of two weeks from the date of receipt of a copy of this order."

3. Thus, in terms of the above order, the second respondent was required to verify the sale slip issued by the licensee at the stock yard dated 27.07.2016 and the sales invoice dated 27.07.2016 and after he was satisfied, he can pass appropriate orders. It is not clear as to whether the second respondent was aware of the direction issued by this Court. It is stated that the petitioner had produced a copy of the order in the office of the second respondent. Nevertheless, the second respondent did not issue any notice before passing the impugned order, which has resulted in the violation of the principles of natural justice. Therefore, the proper procedure for the second respondent is to consider the petitioner's representation 08.09.2016 by issuing notice to the petitioner, call upon him to produce necessary documents in support of his stand, verify the genuineness of those documents and their admissibility and efficacy and thereafter, pass a speaking order. This having not been done, this Court is inclined to interfere with the proceedings and remand the matter to the second respondent for fresh consideration.

4. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the second respondent, who shall issue notice of personal hearing to the petitioner, call upon him to produce necessary documents to substantiate his claim, verify their authenticity

as well as admissibility and efficacy and thereafter, pass a speaking order on merits and in accordance with law. The above exercise shall be complied with within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

- 1.The District Collector,Villupuram District,Villupuram.
- 2.The Revenue Divisional Officer,cum Executive Magistrate,Villupuram Division,Villupuram, Villupuram District.
- 3.The Inspector of Police,Vanoor Police Station,Vanoor Taluk, Villupuram District.

+1 CC to Mr. S. Lakshmenasamy, Advocate Sr.No.55018
+1 CC to Government Pleader Sr.No.55334

W.P.No.33974 of 2016

MD: 13/10/2016

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