



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P. (MD) No.10991 of 2016

A.Mary Jenifer

...Petitioner

Vs.

1. The District Revenue Officer,
Trichy District,
Trichy.

2. The Inspector of Police,
Civil Supplies Crime Investigation Department,
Trichy.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to release the TATA Ace vehicle bearing registration No.TN-67 AP-3440 seized by the second respondent on 12.02.2016 to the petitioner.

For Petitioner	:	Mr.T.Lenin Kumar
For Respondents	:	Mr.J.Gunaseelan Muthiah Govt. Advocate

O R D E R

Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the respondents.

4. According to the petitioner, she being the owner of TATA Ace vehicle bearing registration No.TN-67 AP-3440 was seized by the second respondent on 12.02.2016 on the allegation that the vehicle was used to transport 19 bags of rice (each containing 50 kgs.). It appears that after seizure of the vehicle, a case was registered by the second respondent/Inspector of Police, Civil Supplies Crime Investigation Department, Trichy in Crime No.18 of 2016 in respect of an offence under Section 6(4) of TNSC (RDCS) Order, 1982 r/w. 7(1)(a)(ii) of Essential Commodities Act, 1955 and produced the vehicle before the first respondent.

5. The grievance of the petitioner is that after seizure of the vehicle, on 20.04.2016, she made a detailed representation to the first respondent praying for release of vehicle. In spite of the same, her vehicle has not been released so far.



6. The prime submission advanced on behalf of the petitioner is that the seized vehicle in question is exposed to sun and rain and also it is kept in open yard. Also that, no confiscation proceedings have been initiated till date by the authorities concerned.

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7. At this stage, the learned counsel for the petitioner cites the order of this Court, dated 17.05.2013 in W.P.No.14224 of 2013 between K.Gangadaran vs. the District Collector, Coimbatore District and another, whereby and where-under at paragraphs-8 to 10, it is observed and ordered as follows.

"8. In the instant case, the petitioner is said to have submitted his representation dated 02.05.2013 addressed to the second respondent praying for handing over of the pick up Mini Van bearing Registration No.KL 9 AD 3334 in question.

9. One cannot ignore an important fact that a Judicial Magistrate can pass an order under Section 451 of Cr.P.C. Only after physical or symbolical production of seized material before the Court and that too only after hearing both sides. It cannot be gainsaid that such an order is final as between the parties. A party affected by such an order is entitled to file a Revision before the Competent Forum. For disposal of property under Section 451 of Cr.P.c., it is necessary that the property should be in the control of Magistrate. The orders to be passed by the competent Judicial Magistrate are under Sections 451 and 457 of Cr.P.C., which are during the pendency of trial or enquiry.

10. Be that as it may and taking note of the fact that the seized vehicle cannot be kept either in the Police Station or within a precincts of R.D.O.'s Office etc., and also bearing in mind an important fact that such keeping of seized vehicle for a long time will be detriment to the interest of the petitioner, this Court, in the interest of justice, directs the first respondent to release the Ashok Leyland Mini Pick up Van bearing Registration No.KL 9 AD 3334, subject to the petitioner fulfilling the following conditions:-

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in cash before the first respondent;

(b) The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicle;

(c) The petitioner is to file an affidavit of undertaking that he will cause production of the vehicle in question before the competent/concerned respondents (as may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;



(d) On compliance of the above conditions, the first respondent is directed to release the seized vehicle bearing registration No.KL 9 AD 3334 to the petitioner (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(e) The first respondent is directed to pass final orders in the adjudication proceedings within a period of 45 days;

(f) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law and in accordance with law; and

(g) Inasmuch as the Vehicle Ashok Leyland Mini Pick up Van bearing Registration No.KL 9 AD 3334 is seized by the second respondent on 25.04.2013, the above order is to be complied with, within three days, if no order of adjudication is passed or confiscation is passed on as today.

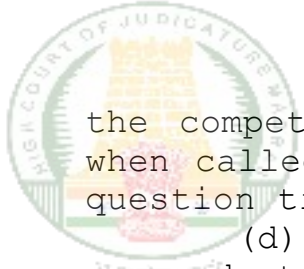
8. In this connection, the learned counsel for the petitioner urges before this Court that the aforesaid order dated 17.05.2013 in W.P.No.14224 of 2013 passed by this Court squarely apply to the facts and circumstances of the present case and prays that similar order may be passed by this Court so as to prevent an aberration of justice and to promote substantial cause of justice. As far as the present case is concerned, it is not in dispute that the petitioner made a detailed representation on 20.04.2016 praying for release of her TATA Ace vehicle bearing registration No.TN-67 AP-3440. Till date, her request is not acceded to by the authority concerned. If the petitioner's vehicle in question is allowed to remain so under the sun and rain, then there is a possibility of the vehicle getting deteriorated. Also, keeping the vehicle for getting a long time will be prejudicial to the interest of the petitioner.

9. Viewed in that perspective, this Court directs the first respondent/District Revenue Officer, Trichy District, Trichy to release the vehicle bearing registration No.TN-67 AP-3440 subject to the petitioner satisfying the following conditions:-

(a) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in cash before the first respondent;

(b) The petitioner is directed to produce all the documents of the ownership of the seized vehicle;

(c) The petitioner is to file an affidavit of undertaking that she will cause production of the vehicle in question before



the competent/concerned respondents (as the case may be) as and when called for and further, she will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(d) On compliance of the above conditions, the first respondent is directed to release the seized vehicle bearing registration No.TN-67 AP-3440 to the petitioner (if she is in custody and possession), within three days from the date of receipt of a copy of this order;

(e) The first respondent is directed to pass final orders in the adjudication proceedings within a period of 45 days;

(f) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law and in accordance with law; and

(g) Inasmuch as the vehicle bearing registration No.TN-67 AP-3440 is seized by the second respondent on 12.02.2016, the above order is to be complied with within three days, if no order of adjudication is passed or confiscation is passed as on today.

10. With the aforesaid observation and direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To

1. The District Revenue Officer, Trichy District,
Trichy.

2. The Inspector of Police,
Civil Supplies Crime Investigation Department,
Trichy.

+1cc to Mr.T.Leninkumar, Advocate in SR.32538

W.P. (MD) No.10991 of 2016

22.06.2016

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