

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE **M.VENUGOPAL****W.P. (MD) No.11262 of 2016**

J.John Bosco

... Petitioner

Vs.

1. The District Revenue Officer,
Kanyakumari District,
Nagercoil.

2. The Inspector of Police,
Civil Supplies C.I.D.,
Kuzhithurai at Nagercoil,
Kanyakumari District.

... 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 Auto bearing Reg.No.KL-20-J-292 seized by the second respondent on 05.05.2016, 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, he is the owner of the auto bearing Registration No.KL-20-J-292 and on 05.05.2016, the second respondent seized the vehicle on the allegation that the vehicle was used to transport 5 bags of rice (each containing 50 kgs.). After seizure of the vehicle, the second respondent registered a case in Crime No.81 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. Soon after seizure of the vehicle in question, the petitioner had made a representation on 24.05.2016 to the first respondent seeking release of his vehicle. Till date no action has been taken in the subject matter in issue.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The learned counsel for the petitioner strenuously

6.

"7. Also, it is aptly pointed out by this Court in the Division Bench decision of this Court in Deputy Commissioner of Civil Supplies, City South, Chennai and another V. S.Damodaran, (2007) 3 MLJ 196 and 197, it is laid down 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.

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

<https://hcservices.accounts.gov.in/hcservices/>



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 the case 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.

7. In view of the fact that the petitioner's vehicle bearing Reg.No.KL-20-J-292 is kept in the first respondent's Office, Kanyakumari District, Nagercoil and also this Court taking note of the fact that the order dated 17.05.2013 in W.P.(MD). No.14224 of 2013 cited by the petitioner's counsel applies to the facts and circumstances of the present case, this Court applying the same, passes the following order by directing the first respondent, in the interest of justice, to release the vehicle bearing Registration No.KL-20-J-292 subject to the petitioner satisfying the under mentioned 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 the case 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-20-J-292 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 bearing Registration No.KL-20-J-292 is seized by the second respondent on 05.05.2016, 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.

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

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Kanyakumari District, Nagercoil.

2. The Inspector of Police, Civil Supplies C.I.D.,
Kuzhithurai at Nagercoil, Kanyakumari District.

+1 cc to The Special Government Pleader in SR.No.33106

+1 cc to M/s.T.Lenin Kumar, Advocate in SR.No.32825

akv

CSL/ARK-PV/05.07.2016 :4P/5C

W.P. (MD)No.11262 of 2016

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