



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2016

CORAM:

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL

W.P. (MD) No.12095 of 2016

S.M.Kamaraj

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Padmanabhapuram,
Thuckalai,
Kanyakumari District.

2.The Inspector of Police,
Thuckalai Police Station,
Thuckalai,
Kanyakumari District.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to release the petitioner's Taurus Lorry bearing Registration No.TN-74-V-5216.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.S.Chandrasekar, G.A.

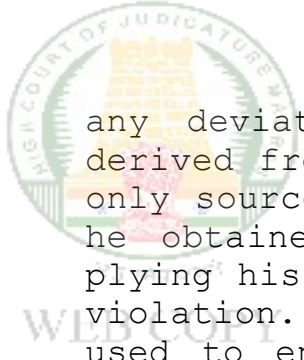
ORDER

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 1 & 2.

4.According to the petitioner, he is the owner of Taurus Lorry bearing registration No.TN-74-V-5216. He purchased the said vehicle under hypothecation Finance and plying his lorry without

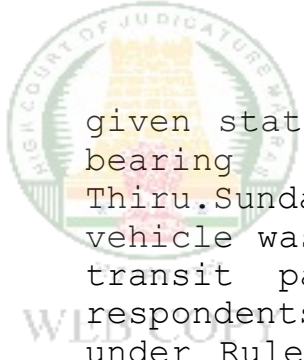


any deviation from the transport permit. Out of the income derived from this vehicle, he is running his family and it is the only source of income for him and the whole family. Furthermore, he obtained a valid transport permit with insurance and he is plying his vehicle for the past 10 years without any deviation or violation. Therefore, the Government Construction Contractors used to engage his lorry for transporting river sand and other building materials.

4. While that be the facts situation, on 02.07.2016 at 04.00 p.m, he had taken river sand from Trichy under valid pass slip No.11378 dated 02.07.2016 to Marthandam for the construction of PDS building at Vilathurai under MLA Scheme. As per the permit slip, his vehicle has to reach Marthandam on the next day on 03.07.2016 at 09.00 a.m. The total distance between the Stock Yard at Trichy to the destination point is 500 kms. While his vehicle was proceeding to Marthandam, it had developed some mechanical problem at Tirunelveli and after rectifying the same, his vehicle proceeded to Marthandam. To rectify the mechanical problem, it took nearly a day and because of the mechanical problem, it could not reach the destination point in time.

5. Furthermore, when his vehicle was passing through Thucklai, which is 20 kms from the destination point, on 04.07.2016, the 2nd respondent/Inspector of Police, Thucklai Police Station, had intercepted and enquired about the same and his driver informed about the mechanical problem of the vehicle and due to that, the vehicle could not reach the destination point in time. However, the second respondent had not accepted the same and seized his vehicle on the ground of delay and handed over the same before the first respondent/Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District. Under such circumstances, he addressed a representation dated 05.07.2016 before the first respondent before the first respondent along with the PDS, building work allotment order of District Collector, the sand pass and the building plan. However, the 1st respondent had not considered his representation and release his vehicle viz., Taurus Lorry bearing Regn.No.TN-74-V-5216. Hence, he has filed the present writ petition praying for passing of an order by this Court in directing the 1st respondent/Revenue Divisional Officer, Padmanabhapuram to release the petitioner's Taurus Lorry bearing Registration No.TN-74-V-5216 within the time stipulated by this Court.

6. On behalf of the first respondent, the Learned Government Advocate brings it to the notice of this Court, in the subject matter in issue, an enquiry was conducted by the Tahsildar, Kalkulam and in fact, the owner of the vehicle/writ petitioner (S.M.Kamaraj) and the driver of the vehicle (Sunderraj), have



given statements mentioning that on 04.07.2016, while the vehicle bearing Regn.No.TN-74-V-5216 was transporting sand to Thiru.Sundarrajan of Marthandam, the vehicle was impounded, as the vehicle was found engaged in transportation of sand 'without valid transit pass'. Also, it is represented on behalf of the respondents 1 & 2 that they came forward to compound the offence under Rule 36(A) (1) of Tami Nadu Minor Mineral Concession Rules, 1959. It appears that the vehicle owner was directed to produce the original records to prove the ownership of the and to appear for personal hearing.

7.In view of the fact that the vehicle owner was directed to produce original records to prove the ownership of the vehicle and to appear for personal hearing, at this stage, this Court, taking note of the fact the vehicle in question is meant for utilisation of the owner of the lorry and other users, in the interest of Justice and Fair Play, directs the release of vehicle viz., Taurus Lorry bearing registration TN-74-V-5216, subject to 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 1st 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 1st respondent is directed to release the seized vehicle bearing Registration TN-74-V-5216 (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(e)The 1st respondent is directed to pass final orders in the adjudication proceedings within a period of 30 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) In view of the fact that the Taurus Lorry bearing registration TN-74-V-5216 was seized by the 2nd respondent on 04.07.2016 the above order is to be complied within a week, if no order of adjudication is passed or confiscation is passed as on



today.

8. With the aforesaid directions, the Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

vs

To

1. The Revenue Divisional Officer,
Padmanabhapuram,
Thucklai,
Kanyakumari District.

2. The Inspector of Police,
Thucklai Police Station,
Thucklai,
Kanyakumari District.

+1CC TO MR.M.R.SRINIVASAN, ADVOCATE, SR NO.41327

+1CC TO M/S. THE SPECIAL GOVERNMENT PLEADER, SR.NO.41217

JAM/08.08.2016/AAL-MPA/SAR I/4P-5C

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