



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 14.07.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.12266 of 2016

Ramadevi

..Petitioner

Vs

1.The District Revenue Officer,
Virudhunagar District.

2.The Inspector of Police,
Civil Supplies CID,
Virudhunagar District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to release the lorry bearing Registration No.TN-67-AC-1166 seized by the second respondent on 11.3.2016 to the Petitioner.

For Petitioner :M/s.T.Lenin Kumar

For Respondents :Mr.J.Gunaseelan Muthiah
Govt.Advocate

ORDER

Heard both sides.

2.By consent of both sides, 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 Lorry bearing Registration No. TN-67-AC-1166 and it comes to be known that on 11.03.2016, the Second Respondent seized his vehicle on the allegation that the vehicle was driven with adulterated fuel namely mixing kerosene with diesel. After seizure of the vehicle, the Second Respondent/The Inspector of Police, Civil Supplies CID, Virudhunagar District registered a case in Crime No.68 of 2016, for the alleged offence under Clause 17 of Tamil Nadu Kerosene(Regulation of Trade) Order, 1973 and Clause 3(1) of Kerosene (Restriction on use and Fixation of Ceiling Prices)Order, 1993, r/w. 7(1)(a)(ii) of Essential Commodities Act, 1955. Admittedly, the vehicle was produced before the First Respondent/The District Revenue Officer, Virudhunagar District.

5.The grievance of the Petitioner is that he made a detailed representation on 11.05.2016(after seizure of the vehicle) to the First Respondent seeking release of the vehicle. However, till date, the vehicle is not released by the First Respondent. Hence the Petitioner has come forward with the present Writ Petition.



6.The main contention advanced on behalf of the Petitioner is that the seized vehicle is under hot sun and it is kept in open yard. If rainfall takes place, the vehicle will lose its normal wear and tear and its value. Moreover, till date, no confiscation proceedings have been initiated by the First Respondent/The District Revenue Officer, Virudhunagar District. Further, it is represented on behalf of the Respondents that the said vehicle was imposed with a fine of Rs.5,80,000/- and the matter is pending before the First Respondent for enquiry. Although, it is represented on behalf of the Respondents that the said amount of Rs.5,80,000/- imposed by the concerned Department is not yet paid, for effecting recovery, it is for the Respondents concerned to proceed against the Petitioner by following the Rules and Regulations that are in force as on today.

7.The Learned Counsel for the Petitioner relies on an order, dated 17.5.2013 in W.P.No.14224 of 2013 between K.Gangadaran and the District Collector, Coimbatore District and another, wherein, this Court had ordered the release of Ashok Leyland Mini Van bearing Registration No.KL 9 AD 3334, by issuing necessary directions.

8.In view of the fact that the Petitioner's vehicle No. TN-67-AC-1166 is under the custody of the First Respondent/The District Revenue Officer, Virudhunagar District and till date, no confiscation proceedings have been initiated by the First Respondent, at this stage, this Court is of the considered view that the seized vehicle cannot be kept either in the Police Station or within the precincts of the District Revenue Officer, Virudhunagar District/First Respondent's Office or Revenue Divisional Officer's Office and also this Court keeping in mind a primordial fact that keeping the seized vehicle for a longer period certainly will cause detriment to the interest of the Petitioner, this Court, in the interest of justice, directs the First Respondent/The District Revenue Officer, Virudhunagar District to release the lorry bearing Registration No.TN-67-AC-1166, 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 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 shall 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 lorry bearing Registration No.TN-67-AC-1166 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 lorry bearing Registration No.TN-67-AC-1166 is seized by the First Respondent on 11.03.2016, the aforesaid order is to be complied with within a period of one week, if no order of adjudication is passed as on today.

10. With the aforesaid directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1. The District Revenue Officer,
Virudhunagar District.

2. The Inspector of Police,
Civil Supplies CID,
Virudhunagar District.

+1cc to M/s.T.Leninkumar, Advocate in SR.36559

+1cc to the Special Government Pleader, in SR.36491

W.P (MD) No.12266 of 2016
14.07.2016

vsn

PBK/NGM-MP/SAR-III 15/07/2016 ::3P-5C:: (IT)