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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 15.07.2016
CORAM

THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.P(MD) No.12405 of 2016

Merlin Jeba

..Petitioner

Vs

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

2.The Inspector of Police,
Civil Supplies CID.,
Kuzhithurai at Nagercoil,
Kanyakumari 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-37-BK-7484 seized by the Second Respondent on 4.7.2016 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, her Lorry bearing Registration No.TN-37-BK-7484 was seized by the Second Respondent/The Inspector of Police, Civil Supplies CID, Kuzhithurai at Nagercoil, Kanyakumari District, on the allegation that the vehicle was employed to transport 270 liters of white colour kerosene. After seizure of the vehicle, the Second respondent registered a case in Cr.No.115 of 2016, in respect of the alleged offence under Clause 17 of Tamil Nadu Kerosene(Regulation of Trade) Order, 1973 r/w. Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 and produced the vehicle before the First Respondent/The District Revenue Officer, Kanyakumari District, Nagercoil. Immediately after the seizure of the vehicle, on 6.7.2016, the Petitioner made a representation to the First Respondent in person, seeking release of his vehicle. But unfortunately his representation, dated 6.7.2016, till date, has not met with any positive result. Hence, the Petitioner has

<https://hdservices.courts.gov.in/hdservices> Writ Petition seeking release of her Lorry bearing Registration No.TN-37-BK-7484 seized by the Second Respondent on 4.7.2016.



5. It is to be noted that vehicle is meant for user purpose only and it is axiomatic principle of Law that the owner of the vehicle should not be deprived of such user. It cannot be lost sight of, if the vehicle is not put into use, it is likely to rot and rust. . Just because the property/vehicle is liable for seizure/confiscation, it should not be released pending adjudication proceedings before the competent authority, is not a justifiable or reasonable ground for refusing the interim custody of the vehicle seized, in the considered opinion of this Court.

6. Considering the fact that the Petitioner's vehicle namely, Lorry bearing Registration No. TN-37-BK-7484 was seized by the Second Respondent on 4.7.2016 and also this Court taking note of yet another fact that the Petitioner had submitted a detailed representation, dated 6.7.2016, wherein, she had sought for the release of the Lorry/vehicle and also this Court taking note of the attendant facts and circumstances of the present case in a conspectus fashion, comes to a consequent conclusion that if the seized lorry/vehicle of the Petitioner in question is kept for a longer time, then it will be detrimental to the interest of the Petitioner and viewed in that perspective, this Court, in the interest of justice, directs the First Respondent/The District Revenue Officer, Kanyakumari District, Nagercoil to release the Lorry bearing Registration No..TN-37-BK-7484, subject to the following requirements/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 Lorry bearing registration No. TN-37-BK-7484 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-37-BK-7484 is seized by the Second Respondent on 04.07.2016, the above order is to be complied with within a



period of one week, if no order of adjudication is passed as on today.

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

Sd/
Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar

To

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

2. The Inspector of Police,
Civil Supplies CID.,
Kuzhithurai at Nagercoil,
Kanyakumari District.

+1cc to M/S.T.Lenin Kumar, Advocate in SR.No.36966
+1cc to Special Government Pleader in SR.No.37168

W.P (MD) No.12405 of 2016
15.07.2016

vsn
PA/GSV-PM/SAR II/25.07.2016/2P/5C