



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.08.2016

CORAM

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.15321 of 2016

Bensam

..Petitioner

Vs

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

2.The Inspector of Police,
Thiruvattar Police Station,
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 respondents to release the Petitioner's JCB bearing Registration No.TN72 AD-1839 seized by the second respondent on 7.8.2016, now under the custody of the first respondent.

For Petitioner :M/s.R.Russel Raj
For Respondents :Mr.K.Guru
Addl.Govt.Pleader

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 JCB bearing Registration No.TN72 AD-1839 and the Registration of the vehicle stand in his name. It comes to be known that on 7/8/2016 at about 9.10. a.m, while the Petitioner's driver was loading minor mineral (excavated soil from the well) on a mini lorry for agricultural purpose, the Second Respondent/The Inspector of Police, Thiruvattar Police Station, Kanyakumari District had intercepted and seized his vehicle without any valid reason, saying that his driver had loaded soil without any permit. As on date, the vehicle of the Petitioner is under the custody of the First Respondent. Although, immediately after seizure of the Petitioner's vehicle, he made a written representation before the First Respondent on 9.8.2016, the First Respondent has not released his vehicle so far. Hence the Petitioner has filed the present Writ Petition before this Court.



5. Considering the fact that the Petitioner's vehicle- JCB bearing Registration NO. TN 72 AD-1839 is seized by the Second Respondent/The Inspector of Police, Thiruvattar Police Station, Kanyakumari District and it is represented on behalf of the Respondents that the vehicle is now under the custody of the First Respondent, at this stage, this Court is inclined to release the vehicle-JCB bearing Registration NO. TN 72 AD-1839 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 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-JCB bearing Registration NO. TN 72 AD-1839 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-JCB bearing Registration NO. TN 72 AD-1839 is seized by the Second Respondent on 7.8.2016, the above order is to be complied with within a period of one week, if no order of adjudication is passed as on today.

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

Sd/-

Assistant Registrar (Records)

/True Copy/



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

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

+1 cc to Mr.R.RUSSEL RAJ ,Advocate, Sr.No: 45713

+1cc to M/S Special Government Pleader, Sr No. 45994

JAM/DB/SAR III/30.08.16/ 3P-5C

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