



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01/12/2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD)No.23330 of 2016

and

W.M.P.(MD).No.16755 of 2016

DESIYAPPAN

... PETITIONER

Vs.

1 THE SUB COLLECTOR
SUB COLLECTOR OFFICE,
SIVAKASI.

2 THE TAHSILDHAR
SRIVILLIPUTTUR,
VIRUDHUNAGAR DISTRICT.

... RESPONDENTS

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus to direct the 2nd respondent to return the tractors cum tailors bearing registration NO.TN67 S 5798, TN67 S 5799 and TN65 H 8784, TN65 H 8786 to the petitioner.

For Petitioner : Mr.R.Anand
For Respondents : Mr.R.Anandharaj
Government Advocate

ORDER

This Writ Petition is filed seeking a direction to release the the petitioner's vehicles namely tractors cum tailors bearing registration Nos.TN67 S 5798, TN67 S 5799 and TN65H 8784, TN65 H8786 to the petitioner.

2.According to the petitioner, he is the owner of the above said vehicles and on 12.11.2016, the second respondent seized the vehicles for the alleged illegal quarry of sand. Now, a show-cause notice, dated 23.11.2016, has been issued by the first respondent under the Tamil Nadu Minor Mineral Concession Rules, 1959, seeking explanation from the petitioner as to why penalty should not be imposed for illegal transportation of the sand and enquiry is pending with the second respondent. Hence, on the same day, the petitioner made a representation to the respondents seeking to release the vehicles, but so far the second respondent is not releasing the vehicles and keeping the vehicles in his custody.



3. The learned Government Advocate on instructions submitted that on receipt of an information that illegal quarry is being carried on, respondents along with team of officers inspected the site and found that the above said tractors and trailers were used to carry the sand without any valid permit. Hence, the second respondent has seized the above vehicles and kept in his custody.

4. According to the petitioner, the vehicles were seized on 12.11.2016 and now, they are under the custody of the second respondent. If the vehicles are allowed to stand in an open place, they would also likely to lose their value and further, it would also likely to take longer time for getting orders from the second respondent to return the vehicles. Hence, he has filed the present writ petition.

5. Taking into consideration of the fact that the vehicles are in the custody of the second respondent from 12.11.2016, the second respondent is directed to return the vehicles to the petitioner with the following conditions:

(a) The petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) in cash for each tractor and trailer before the second respondent; (Totally a sum of Rs.15,000 x 2 = Rs.30,000/-)

(b) The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicles;

(c) The petitioner is to file an affidavit of undertaking that he will cause production of the vehicles in question before the competent/concerned respondent (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 second respondent is directed to release the seized vehicles bearing Registration Nos. TN67 S 5798, TN67 S 5799 and TN65H 8784, TN65 H8786 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 second 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 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 Nos. TN67 S 5798, TN67 S 5799 and TN65H 8784, TN65 H8786 belong to the petitioner is seized by the second Respondent on 12.11.2016, the aforesaid order is to be complied with within a period of one week, if no order of adjudication is passed as on today.

6. In view of the above, this Writ Petition is also disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar.

To

1 THE SUB COLLECTOR
SUB COLLECTOR OFFICE SIVAKASI.

2 THE TAHSILDHAR
SRIVILLIPUTTUR VIRUDHUNAGAR DISTRICT.

+1CC to M/S.T.Antoncy Arul Raj, Advocate, SR.No. 75037

+1CC to the Special Government Pleader, SR.No. 78977

W.P(MD)No.23330 of 2016
01/12/2016

vs
AM/GSV.PM/SAR-1/08.12.2016/3P/5C