

In the High Court of Judicature at Madras

Dated: 23.03.2017

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The Honourable Mr.JUSTICE K.RAVICHANDRABAABU

W.P.No.6737 of 2017

and

WMP No.7327 of 2017

1.Selvi Earth Movers and Transports Pvt Ltd.,
Rep. By its Managing Director,
E.Anandaraj,
No.2/1421, 1st Street, Anna Nagar,
Eachangadu,
Chennai 600 117.

2.E.Anandaraj

3.V.Elumalai

.... Petitioners

Vs.

1.The Sub Collector,
Tindivanam.

2.The Deputy Director,
Mines and Minerals Department,
Villupuram District,
Gingee.

3.The Inspector of Police,
Gingee Police Station,
Villupuram.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records Na.Ka.A3/105/2017 dated 07.02.2017 n the file of the second respondent and quash the same as illegal and direct the second and third respondents to release the vehicles having registration numbers (a) JCB, JCB (ECO) JS 250 LC, Type JS205 bearing Engine No.84302567, stands in the name of the second petitioner herein (b) Tipper Lorry bearing No.TN 16 Y 1625 stands in the name

of the first petitioner c) Tipper Lorry bearing No.TN 16 Y 1640 stands in the name of the first petitioner and another (d) Tipper Lorry bearing No.TN 16 B 4500 stands in the name of the third petitioner.

For Petitioner : M/s.Hameedha Sultana
for Mr.V.Raghavachari
For Respondents : Mr.C.Jagdish
Special Government Pleader

O R D E R

The petitioners are aggrieved against the order of the second respondent dated 07.02.2017 passed under Section 36A of the Tamilnadu Minor Minerals Concession Rules, 1959.

2.Heard both sides.

3.The petitioners are the owners of three tipper lorries bearing Registration Nos.TN16 Y 1625, TN 16 Y 1640 and TN 16 B 4500 and one JCB bearing Registration No.JCB (ECO) JS 250 LC, Type JS205 bearing Engine No.84302567. On 12.01.2017, the above vehicles belonging to the petitioners were seized on an allegation that they were engaged in illegal mining of gravel. Consequently, the impugned order under Rule 36A of the said Rules was passed against the petitioners thereby directing them to pay a sum of Rs.20,12,362/- towards the seigniorage fee, cost of mineral and penalty apart from imposing

penalty of Rs.1,25,000/- on the vehicles. It is stated in the impugned order that only on making such payment, the vehicles shall be released. Now the said order is challenged before this court.

4. Admittedly, as against the said order, the petitioners are having a statutory right of appeal before the District Collector, Villupuram. Therefore, it is for the petitioners to file such appeal before the said appellate authority and canvass all the points in the said appeal. However, as the vehicles were seized as early as on 12.01.2017 and they are kept in the custody of the second and third respondents thereby exposing the same to sun and rain, this court is of the view that in the interest of parties, the vehicles can be released by imposing a condition on the petitioners as set out hereunder:

5. Accordingly, this writ petition is disposed as follows:

a) The petitioners shall pay a sum of Rs.6,25,000/- (Rupees Six lakhs twenty five thousand only) before the first respondent within a period of three weeks from the date of receipt of a copy of this order.

b) The petitioners shall also produce the proof of ownership of the said vehicles to the satisfaction of the first respondent;

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c) The first respondent, on receipt of the said proof of ownership and on receipt of such payment shall release the vehicles forthwith;

d) The petitioners are given liberty to file an appeal before the District Collector, Villupuram within a period of four weeks from the date of receipt of a copy of this order.

e)The petitioners shall not alienate or encumber the vehicles in any manner unless and until a finality is reached in the proceedings relieving the petitioners from their liability.

No costs. The connected miscellaneous petition is closed.

23.03.2017

Speaking/Non Speaking

Index :Yes/No

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To

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Gingee.

3.The Inspector of Police,
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