

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.24061 of 2017

T.Mahadevan

... Petitioner

Vs.

1. The Sub Collector
O/o. Sub Collector Office
Chengalpattu
Kancheepuram District.

2. The Regional Transport Officer
Chengalpattu Region
Chengalpattu

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 1st respondent to consider and release the petitioner's Lorry bearing Registration No.TN 21 AZ 6332 based on the representation dated 07.08.2017.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondents : Mr.R.Rajeswaran
Special Government Pleader

O R D E R

Mr.R.Rajeswaran, learned Special Government Pleader, takes notice for the respondents. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above Writ Petition to issue a writ of mandamus, directing the 1st respondent to consider and release the Lorry bearing Registration No.TN 21 AZ 6332 based on the representation dated 07.08.2017.

3. It is the case of the petitioner that he is doing transport business in Kancheepuram District and in the month of July 2017, he approached the Sri Ram Automobile India Pvt. Ltd. situated at Padalam X Road, Kancheepuram District for buying old lorries. Based on the instructions, he approached another Branch of the said Automobile company at Kalpakkam. the said company informed him that one lorry bearing

Registration No.TN 21 AZ 6332 was available for sale which was under Hypothecation under them. The said lorry originally belongs to one M.Moorthy and the said lorry was under the custody of the 1st respondent and confiscated by the Thirukazhikundram Police Station for the offence of Mines and Minerals Act. Since the original owner has failed to close the account for the past one year, the company, viz., Sri Ram Automobile India Pvt. Ltd. sold the lorry to the petitioner, which was under the Hypothecation terms and conditions. The owner of the lorry, viz., M.Moorthy failed to close the loan account with the company and he has also not taken any effective steps for the release of the vehicle. In these circumstances, the petitioner has filed the writ petition.

4. The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, by order dated 27.02.2017 in W.P.No.4805 of 2017, disposed of the said writ petition by imposing some conditions for releasing the vehicle. The relevant portion of the order passed in W.P.No.4805 of 2017 reads as follows:-

"6. Having regard to the fact that the representation dated 24.1.2017 is pending consideration of the 1st respondent, this Court is inclined to dispose of the writ petition with the following direction, since there will not be any purpose in detaining the subject vehicle for a longer period:-

"(i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) in cash with the first respondent.

(ii) The petitioner shall produce documents before the first respondent to establish the ownership of the vehicle in question.

(iii) The petitioner shall file an undertaking that he will produce the vehicle in question before the respondent as and when called for and that he will not alienate the vehicle in question till the proceedings initiated are completed.

(iv) On compliance of the above conditions, the respondent is directed to release the vehicle to the petitioner within two days.

(v) The respondent shall proceed with the enquiry and pass appropriate orders. The petitioner is also directed to appear and co-operate with the enquiry.

(vi) This order for release of vehicle can be availed of by the petitioner if no criminal case is pending. If any criminal case is pending, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law".

5. It appears that the vehicle of the petitioner was seized on 28.07.2017 on account of a charge levelled under Mines and Minerals Act.

6. The petitioner further contends that he had submitted a representation dated 07.08.2017 in this regard to the first respondent and since no order has been passed on such representation, he is constrained to file the present writ petition. Further, according to the learned counsel for the petitioner, the vehicle is kept in open weather, by which the same is getting damaged.

7. Mr.R.Rajeswaran, learned Special Government Pleader, appearing for the respondents submitted that since the issue involved in the present writ petition is covered by the earlier order passed by this Court, the same order can be passed in this writ petition also.

8. Having regard to the submissions made by the learned counsel on either side and that the representation dated 07.08.2017 is pending consideration before the 1st respondent, this Court is inclined to dispose of the writ petition with the following directions, since there will not be any purpose in detaining the subject vehicle for a longer period:-

"(i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) in cash with the 1st respondent.

(ii) The petitioner shall produce documents before the 1st respondent to establish the ownership of the vehicle in question.

(iii) The petitioner shall file an undertaking that he will produce the vehicle in question before the 1st respondent as and when called for and that he will not alienate the vehicle in question till the proceedings initiated are completed.

(iv) On compliance of the above conditions, the 1st respondent is

directed to release the vehicle to the petitioner within two days.

(v) The 1st respondent shall proceed with the enquiry and pass appropriate orders. The petitioner is also directed to appear and co-operate with the enquiry.

(vi) This order for release of vehicle can be availed of by the petitioner if no criminal case is pending. If any criminal case is pending, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law".

With the above observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Sub Collector
O/o. Sub Collector Office
Chengalpattu
Kancheepuram District.
2. The Regional Transport Officer
Chengalpattu Region
Chengalpattu

+1cc to Mr.K.T.S.Sivakumar, Advocate, S.R.No.65289
+1cc to the Government Pleader, S.R.No.65395

W.P.No.24061 of 2017

SJ(CO)
CA(22/09/2017)