

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.19838 of 2017

D.Sathish Kumar

... Petitioner

v.

1 The Revenue Divisional Officer
Chengalpattu
Kancheepuram District

2 The Assistant Director
Geology & Mines Department
Kancheepuram
Kancheepuram District

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondents to release the Tipper Lorry bearing Registration No.TN 21 H 5694 which was seized by the 2nd respondent on 28.07.2017 and thereby consider the representation dated 29.07.2017.

For Petitioner : Mr.G.Punniakoti

For Respondents : Mr.R.Rajeswaran
Special Government Pleader

ORDER

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 respondents to release the Tipper Lorry bearing No.TN 21 H 5694, which was seized on 28.07.2017 by the 2nd respondent, to the petitioner.

3. 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".

4. It appears that the vehicle of the petitioner was seized on

28.07.2017 on account of a charge levelled against him that he was

transporting sand without any valid bill or permission of the Government.

5. The petitioner, on the other hand, claims that the sand was transported by him for his personal use and it was required for agricultural purpose and therefore, it would not come within the purview of Tamil Nadu Minor Mineral Concession Rules, 1959. In this regard, the petitioner seeks to place reliance upon Rule 6 of the said Rules.

6. The petitioner further contends that he had submitted a representation dated 29.07.2017 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 29.07.2017 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.

02.08.2017

Index: Yes/No

Note : Issue order copy by 03.08.2017

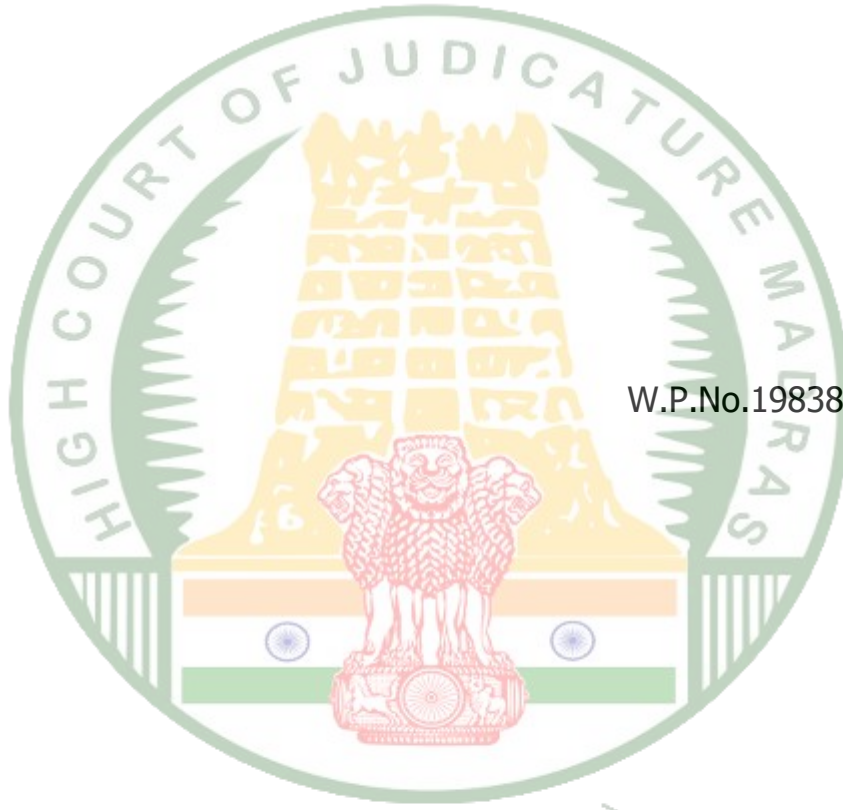
Rj

To

- 1 The Revenue Divisional Officer
Chengalpattu, Kancheepuram District
- 2 The Assistant Director
Geology & Mines Department
Kancheepuram, Kancheepuram District

M.DURAI SWAMY, J.

Rj



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