



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.02.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBBIAH**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.A. [MD].No.88 of 2017
and
C.M.P. (MD) .No.847 of 2017

S.M.Kamaraj : Appellant

Vs.

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

2.The Tahsildar,
Kalkulam Taluk,
Thucklai,
Kanyakumari District.

3.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

4.The Sub Inspector of Police (Traffic),
Thucklai Police Station,
Thucklai, Kanyakumari District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 06.01.2017 made in W.P.(MD).No.315 of 2017, on the file of this Court.

Prayer in WP(MD). 315/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to release the Petitioners Taurus Lorry bearing Registration No.TN-74V-1150 within the time stipulated by this Honble Court.

For Appellant : Mr.M.R.Sreenivasan

For Respondents : Mr.S.Chandrasekar
Government Advocate

**JUDGMENT**

[Judgment of the Court was made by **R.SUBBIAH, J.**]

WEB COPY This Writ Appeal has been filed as against the order dated 06.01.2017 made in W.P.(MD).No.315 of 2017, whereby and whereunder the learned Single Judge of this Court has directed the first respondent herein to release the vehicle bearing registration No.TN74-V-1150 to the appellant herein, within a period of seven days, subject to certain conditions.

2. The case of the appellant before the learned Single Judge is that he is the owner of the lorry bearing registration No.TN74-V-1150. He purchased the said vehicle under hypothecation finance and has been plying the same without any deviation. He got valid transport permit with insurance. On 29.12.2016, at about 05.07 PM, the driver of the appellant had taken river sand load from the Tamil Nadu Government Licensed Stockyard, under valid pass Slip No.025009, dated 29.12.2016 to Marthandam, Kanyakumari District for the purpose of construction work of one Mr.Kesavan. As per the permit slip, the vehicle had to reach Marthandam on the next day, viz., on 30.12.2016. The total distance between the stockyard at Trichy and the destination place is 500 Kilometres. While the vehicle was so proceeding, the fourth respondent intercepted the vehicle and seized the same on the ground that the driver of the lorry drove the vehicle in a drunken state, without insurance and permit and he did not wear uniform. The fourth respondent challenged that he will not allow the vehicle to ply on the road. Immediately, the appellant appeared before the respondents 1 and 2 and explained the position. He had also produced all the relevant documents with a request to release the vehicle. Since no action was taken, the appellant was constrained to file W.P.(MD).No.315 of 2017, seeking a Writ of Mandamus, directing the first respondent to release the Taurus lorry bearing Registration No.TN74-V-1150.

3. The learned Single Judge of this Court, by order dated 06.01.2017, disposed of the said Writ Petition, directing the respondents to release the vehicle in question to the appellant within a period of 7 days, subject to the following conditions:

“(i)The petitioner shall produce documents before the first respondent to establish the ownership of the vehicle in question;

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

(iii)The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in



future and shall produce the same as and when required by the 1st respondent;

(iv) On doing so, the vehicle in question shall be returned to the petitioner; and

(v) The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned."

Aggrieved over the said order, the appellant has come up with this Writ Appeal.

4. It is the assertive submission of the learned counsel for the appellant that at the time when the driver of the lorry drove the vehicle, he was in possession of all the required documents. In spite of the same, the fourth respondent had seized the vehicle with ulterior motive. Thus, he sought for setting aside of the conditions imposed by the learned Single Judge.

5. The learned Government Advocate appearing for the respondents submitted that since the driver of the vehicle was plying the vehicle without valid permit and also without having sufficient documents, the fourth respondent seized the vehicle and therefore, the learned Single Judge was correct in imposing the conditions, which does not require any interference at the hands of this Court.

6. We have considered the above submissions.

7. In our considered view, this Court cannot conduct any roving enquiry into the allegations made by the appellant. Therefore, this Court is not inclined to modify the conditions imposed by the learned Single Judge. However, if the appellant has any grievance that the fourth respondent had seized the vehicle with ulterior motive, he is at liberty to initiate appropriate action as against him, in accordance with law.

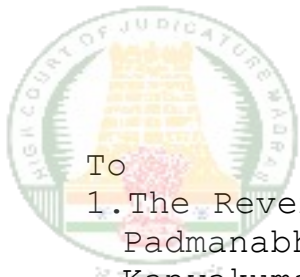
8. The Writ Appeal is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar



To

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

2.The Tahsildar,
Kalkulam Taluk,
Thucklai,
Kanyakumari District.

3.The Superintendent of Police,
Kanyakumari District,
At Nagercoil.

4.The Sub Inspector of Police (Traffic),
Thucklai Police Station,
Thucklai, Kanyakumari District.

+1 cc to MR.M.R.SREENIVASAN, Advocate SR.No.6812

**JUDGMENT MADE IN
W.A. [MD] .No.88 of 2017
07.02.2017**

SMA/JM/SAR-I/09.02.2017:4P/6C