BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.97 of 2017 &
C.M.P.(MD).No.919 of 2017

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Tenkasi, Tirunelveli District.
2.The Zonal Deputy Tahsildar,
Sivagiri Taluk Office,
Sivagiri,
Tirunelveli District. ...Appellants/Respondents

Vs.

T.Muthaiah @ Skailab ...Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order dated 29.12.2016 made in W.P.(MD).No.25060 of 2016.

Prayer in WP(MD)No.25060 of 2016:-

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st Respondent to release the Petitioner's vehicles namely Tractor with Tailor and JCB in bearing Regn.No.TN-79 A 0024, TN-76 F, 2461, TN-76 S 6435 respectively which were seiz 0ed by the 2nd respondent on 09.08.2016.

For Appellants : Mr.R.Anandha Raj
Government Advocate
For Respondent : Mr.C.Baskaran

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM,J]

This writ appeal is directed against the order dated 29.12.2016, wherein the writ petition filed by the respondent was disposed of by issuing certain direction. The operative portion of the order reads as under:-

"6. Considering the facts and circumstances of the case and in view of the fact that the vehicles in question are kept without any use by exposing it to the sun and the rain, it would certainly lose its value, the first respondent is directed to release the vehicles in question to the petitioner on the following conditions:-

"(i) The petitioner shall produce necessary documents before the first respondent to establish to prove his ownership of the vehicles in question;

(ii) The petitioner shall deposit a sum of Rs.10,000/- for each vehicle with the first respondent;

(iii) The petitioner shall given an undertaking that he will not use the vehicles or any other vehicles for any illegal activities and also he will not indulge in such activities in future;

(iv) The vehicle shall be produced to the respondents as and when required.

7. After fulfilling all the four conditions, the first respondent shall release the vehicles in question to the petitioner with specific condition that he shall not alienate or encumber the vehicles in question till the disposal of the proceedings before the authorities concerned. It is also made clear that it is open to the authorities to take appropriate action against the petitioner, in case, he violates any one of the conditions stipulated in this case."

2. The contention raised by the appellants is that already the first appellant has passed an order imposing penalty of Rs.25,225/-. When the matter came up for admission on 04.04.2017 and when the above submission was made, we directed the learned Additional Government Pleader to produce the copy of the said order passed by the first appellant.

3. Today, the learned Government Advocate produced the order, which shows that it is only an official note and order of penalty has not been issued to the petitioner. Therefore, there is no error in the order passed in the writ petition. Consequently, the writ appeal is dismissed. However, we make it clear that the dismissal of the writ appeal will not prevent the appellants from proceeding further with the penalty proceedings in accordance with law. The appellants are directed to release the vehicles subject to the respondent/writ petitioner complying with the conditions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1.The Revenue Divisional Officer,
Revenue Divisional Office,
Tenkasi, Tirunelveli District.

2.The Zonal Deputy Tahsildar,
Sivagiri Taluk Office,
Sivagiri,
Tirunelveli District.

+One cc to Mr.C.Baskaran, Advocate, SR.No.51580

+One cc to The Special Government Pleader, SR.No.51748

jikr
RL/5C/3P/MR/SAR4/25.4.2017

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C.M.P.(MD).No.919 of 2017
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