



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.07.2017
CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WEB COPY

W.P (MD) No.23631 of 2015
and
M.P (MD) No.1 of 2015

M.Arumugavel

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram.

3.R.Ram Pradeepan,
The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram.

4.The Tahsildar,
Rameswaram Taluk Office,
Ramanathapuram District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent made in Na.Ka.No.A8/1163/2015, dated 25.09.2015 and Na.Ka.No.A8/1163/2015, dated 23.10.2015 and quash the same and consequently, direct the second respondent to refund a sum of Rs.10,000/- (Rupees Ten Thousand only) deposited by the petitioner forthwith.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.S.Kumar,
Additional Government Pleader

* * * * *

ORDER

This writ petition has been filed a writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent made in Na.Ka.No.A8/1163/2015, dated 25.09.2015 and Na.Ka.No.A8/1163/2015, dated 23.10.2015 and quash the same and consequently, direct the second respondent to refund a sum of Rs.10,000/- (Rupees Ten Thousand only) deposited by the petitioner forthwith.



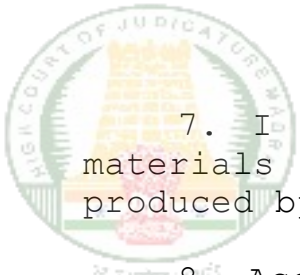
2. The case of the petitioner is that the petitioner is the owner of the Tractor bearing Registration No.TN-76-A-3099. One of the trustees of Rameswaram Sri Dasa Bhakta Anjaneyaswamy Kovil Trust approached the petitioner for transporting sowdu sand from the land situated in S.No.454/2 in Pampan village to the premises of the said temple. On the application made by the said trustee, the Special Tahsildar (Mines) conducted an inspection and thereafter, the first respondent granted permission to transport 50 tractor loads of sowdu sand from 16.02.2015 to 22.02.2015.

3. According to the petitioner, on 16.02.2015, the work has been started, however, the second respondent seized the Tractor on 17.02.2015, without giving any notice to the petitioner. Thereafter, the petitioner filed W.P(MD)No.3143 of 2015 seeking release of the vehicle and this Court, by order dated 06.03.2015, without going into the contentions raised by the petitioner, ordered to release the said vehicle subject to certain conditions.

4. In the meantime, the second respondent, by his proceedings dated 25.09.2015, directed the petitioner to pay a sum of Rs.26,120/- (Rupees Twenty Six Thousand One Hundred and Twenty only) towards penalty for transporting the sowdu sand to the temple premises. After deducting a sum of Rs.10,000/- (Rupees Ten Thousand only) deposited towards conditional payment at the time of release of vehicle, the second respondent directed the petitioner to pay a sum of Rs.16,120/- (Rupees Sixteen Thousand One Hundred and Twenty only). Challenging the same, the petitioner is before this Court.

5. The third respondent filed the counter affidavit contending that on 17.02.2015, the Revenue Divisional Officer, Ramanathapuram, made a surprise inspection at Rameswaram and found that the Tractor bearing Registration No.TN-76-A-3099 was transporting sowdu sand. Further, it is stated that the driver of the said Tractor produced trip sheet No.13031, wherein there was a correction in mentioning the time with ink pen and therefore, an enquiry was ordered. During the enquiry, the owner as well as the driver of the vehicle admitted that the corrections made in the time and issuing date are illegal. Therefore, the penalty has been imposed on the petitioner. Meanwhile, the petitioner filed W.P(MD) No.3143 of 2015 before this Court seeking release of the said Tractor and the said writ petition was ordered directing release of the same with certain conditions.

6. The petitioner also filed a rejoinder denying the averments in the counter affidavit and contended that without conducting any enquiry, the impugned order has been passed by the second respondent and the penalty imposed on the petitioner is illegal.



7. I have considered the rival submissions and perused the materials available on record, including the original files produced by the respondents.

8. According to the petitioner, he is only the owner of the Tractor and Rameswaram Sri Dasa Bhakta Anjaneyaswamy Kovil Trust engaged the services of the petitioner and hence, the trip sheets were issued in favour of the said Trust. The petitioner transported the sowdu sand only on that basis and while so, the Tractor of the petitioner was intercepted alleging that the trip sheet was manipulated. It is the claim of the petitioner that he has not corrected the time in the trip sheet as alleged by the respondents and the penalty imposed on the petitioner is not warranted at all. The petitioner stoutly denied the allegations with respect to manipulation of trip sheet as well as the statements recorded by the respondents during the enquiry alleged to be conducted by them.

9. This Court called for the original files and on production of the same, this Court perused the statements alleged to be given by the petitioner as well as the driver. Such statements are verbatim the repetition of one and the same and it is also alleged that the petitioner was directed to sign in the said statements.

10. Considering the facts and circumstances of the case, this Court is of the view that there are disputed questions of facts involved in this writ petition, which cannot be gone into by this Court in exercise of powers under Article 226 of the Constitution of India. Therefore, in order to give a quietus to the issue involved in this writ petition, the second respondent, who is the competent authority, is directed to conduct proper enquiry after affording due notice to the petitioner and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

11. Accordingly, this writ petition is disposed of as above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

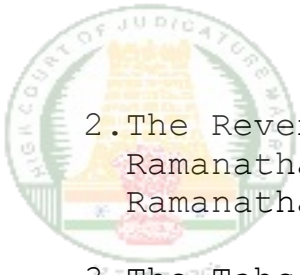
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Sub Assistant Registrar(C.S.)

To:

1.The District Collector,
Ramanathapuram District,

<https://hcservr.hcsmadras.gov.in/>



2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram.

3.The Tahsildar,
Rameswaram Taluk Office,
Ramanathapuram District.

+1cc to M/S.P.MAHENDRAN, Advocate SR.No.66705

+1cc to Special Government Pleader, SR.No. 66626

rsb

MAS/MR-KKR/SAR1:28.07.2017:4P-6C

W.P (MD) No.23631 of 2015
and
M.P (MD) No.1 of 2015
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