

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.06.2017

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE J.NISHA BANU**W.P. (MD) No.10361 of 2017**

Palaniappan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
R.D.O. Office,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first and second respondents to release the Tipper Lorry bearing registration No.TN-04-D-0478 which was seized by the second respondent on 28.05.2017 and the same may be hand over to the petitioner.

For Petitioner : Mr.R.Jegadeeswaran
For Respondents : Mr.G.Muthukannan
Govt. Advocate

O R D E R

This Writ Petition has been filed seeking for a direction to the respondents to release the Petitioner's vehicle namely Tipper Lorry bearing registration No.TN 04-D-0478, seized on 28.05.2017.

2.The petitioner averred among the other things that he is the owner of the Tipper Lorry bearing Registration No.TN-04-D-0478. He used the same for agricultural purpose. On 28.05.2017, when the petitioner's vehicle was transporting Savadu Sand with valid permit, the second respondent Police intercepted the vehicle and seized the same on the allegation that there is no valid permit to transport the savadu sand. The grievance of the petitioner is that though the driver of the vehicle produced the trip slip, the second respondent without considering the same, seized the vehicle and that if the said vehicle is kept idle exposing to hot sun and rain, the same will be deteriorated. Hence, he has come up with this writ petition seeking aforesaid prayer.



3. On the other hand, it is contended by the learned Government Advocate appearing for the respondents that the vehicle was seized, since the same has been transporting sand without valid permit and more than the permitted level. He further submitted that now the matter is pending before the first respondent viz., the Revenue Divisional Officer, Devakottai, Sivagangai District.

4. According to the petitioner, he has hired his vehicle for transporting sand with valid permit.

5. In view of the above and also considering the fact that the Petitioner's vehicle was seized on 28.05.2017 and now it is being exposed to sun and rain, thereby allowing the same to diminish its value, this Court is of the view that the same can be returned to the Petitioner, however, subject to certain conditions which will safe-guard the interest of both the parties.

6. Accordingly, this Writ Petition is disposed of with the following directions.

"(i) The petitioner is directed to deposit a sum of Rs.10,000/- (Rupees ten thousand only) before the first respondent;

(ii) The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicle.

(iii) The petitioner is directed to file an affidavit of undertaking that he will cause production of the vehicle in question before the competent/concerned respondent (as the case may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(iv) On compliance of the above conditions, the first respondent is directed to release the seized vehicle bearing Registration No.TN-04-D-0478 to the petitioner.

(v) The first respondent is directed to pass final orders in the adjudication proceedings within a period of 45 days;

(vi) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of the concerned criminal Court of appropriate jurisdiction, then option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner

known to law and in accordance with law; and



(vii) Inasmuch as the vehicle bearing Registration No. TN-04-D-0478 is seized by the second respondent on 28.05.2017, the aforesaid order is to be complied with within a period of one week, if no order of adjudication is passed as on today.
No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
R.D.O. Office,
Devakottai,
Sivagangai District.
2. The Inspector of Police,
Sakkottai Police Station,
Sivagangai District.

+1cc to M/S. R.JEGADEESWARAN, Advocate, SR.No.58675.
+1cc to Special Government Pleader, SR.No.58548.

W.P. (MD) No.10361 of 2017
05.06.2017

SDS/SV:MMS/SAR 2/06.05.2017/3P/5C