

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

DATED : 05.07.2017
CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P. (MD)No.11790 of 2017

Napoleon

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Sattur,
Virudhunagar District.

2. The Inspector of Police,
Ammapatti Police Station,
Virudhunagar District.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to release petitioner's lorry bearing Registration No.TN 67 D 9669 seized by the 2nd respondent on 12.06.2017.

For Petitioner : Mr.S.Prasanth.

For Respondents : Mr.S.Kumar,

1 & 2

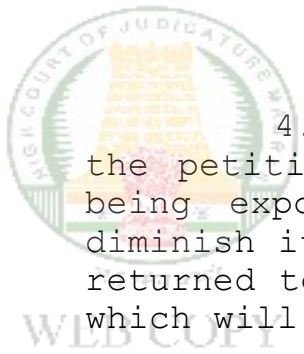
Additional Government Pleader.

ORDER

This Writ Petition has been filed seeking for a direction to the respondents to release the petitioner's vehicle namely lorry bearing Registration No. TN 67 D 9669 seized by the 2nd respondent on 12.06.2017.

2.The petitioner averred among the other things that he is the owner of the vehicle in question. He used to eke out his livelihood through the said vehicle. The petitioner alleges that though the vehicle is not involved in any offence as alleged by the respondent Police, for the statistical purpose, the second respondent has seized the vehicle on the ground that the vehicle in question transported the sand illegally. In this regard, a case has also been registered in Crime No.41 of 2017 on the file of the respondent Police. The grievance of the petitioner is 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 Additional Government Pleader appearing for the respondents that the vehicle was seized, since the same has been transporting sand without any valid permit.



4. In view of the above and also considering the fact that the petitioner's vehicle was seized on 12.06.2017 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.

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

"(i) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees twenty five 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 vehicle in question 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 in question is seized by the second respondent on 12.06.2017, the aforesaid order is to be complied with within a period of two weeks, if no order of adjudication is passed as on today.

No costs.

Sd/-

Assistant Registrar (AD-II)

/True Copy/



To

1. The Revenue Divisional Officer,
Sattur,
Virudhunagar District.

2. The Inspector of Police,
Ammapatti Police Station,
Virudhunagar District.

+1cc to M/S. S.PRASANTH, Advocate, SR.No.63565.
+1cc to Special Government Pleader, SR.No.63725.

W.P. (MD) No.11790 of 2017
05.07.2017

gk/smn
SDS/SKN:RSK/SAR 3/12.07.2017/3P/5C