



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2017

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.4612 of 2017

Devendran

... Petitioner

Vs.

1.The District Revenue Officer,
Kanyakumari District,
at Nagarcoil.

2.The Revenue Divisional Officer,
Padmanabhapuram
Kanyakumari District.

3.The Thasildhar,
Kalkulam Taluk,
Kanyakumari 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 the Petitioner's vehicle (Tempo) with Regn. No. TN 51A 4999.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : Mr.R.Anandaraj
Government Pleader

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 Tempo, bearing Registration No.TN-51-A-4999.

2. The petitioner averred among the other things that he is the owner cum driver of the Tempo bearing Registration No.TN-51-A-4999. On 11.03.2017, the petitioner purchased 1 unit of M-sand from B.G.M. Products run by one Sanjay at Chunkankadai and when he was transporting the same through his Tempo with valid permit which is upto 16th December 2021, at the time the second respondent intercepted and seized the vehicle on the allegation that there is no valid permit to transport the sand. Even after the submission of the bill issued by the B.G.M. Products the 3rd respondent refused to accept the same and handed over the vehicle before the 2nd respondent and now the said vehicle is kept under the custody



of the 2nd respondent. 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 Government Advocate appearing for the respondents that the vehicle was seized, since the same has been transporting sand without valid permit. He further submitted that now the matter is pending before the first respondent viz., the Revenue Divisional Officer, Padmanabhapuram, Kanyakumari District.

4. According to the petitioner, he has used his vehicle for transporting sand with valid permit. In support of the said contention, he has produced the receipt for the purchase of 1 unit of M-sand in the typed set of papers.

5. In view of the above and also considering the fact that the Petitioner's vehicle was seized on 11.03.2017 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 second 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 second respondent is directed to release the seized vehicle bearing Registration No.TN-51-A-4999 to the petitioner.

(v) The second 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-51-A-4999 is seized by the third respondent on 11.03.2017, the aforesaid order is to be complied with within a period of one week from the date of receipt of a copy of this order, if no order of adjudication is passed as on today.

No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The District Revenue Officer,
Kanyakumari District,
at Nagercoil.

2.The Revenue Divisional Officer,
Padmanabhapuram
Kanyakumari District.

3.The Thasildhar,
Kalkulam Taluk,
Kanyakumari District.

+1 cc to Mr.K.P.Narayana Kumar, Advocate, SR.No. 18419

+1 cc to Special Government Pleader, SR.No. 18896

W.P. (MD)No.4612 of 2017
27.03.2017

PJL

MKV-SKN-RSK-SAR 4/4.4.2017/3P-6C