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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.4617 of 2017

Maheswaran

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

3.The Additional Deputy Tahsildar,
Palayamkottai,
Tirunelveli District.

4.The Inspector of Police,
Seevalapperi Police Station,
Tirunelveli District.

5.The Revenue Divisional Officer,
Tirunelveli, Tirunelveli District.

.. Respondents

(R5 is impleaded as per the order of this Court made in
WMP. (MD) .No.4230 of 2017 dated 27.03.2017 by JNB)

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 JCB
vehicle, bearing registration No.TN-74-AM-6431 from the
custody of the 4th respondent and to handover the above
vehicle to the petitioner's custody based on the



petitioner's representation dated 09.03.2017 within the time limit that may be stipulated by this Court.

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For Petitioner : Mr.S.Angappan

For Respondents : Mr.Anandaraj
Government 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 JCB vehicle bearing Registration No.TN-74-AM-6431.

2.The petitioner averred among the other things that he is the owner of the JCB vehicle bearing Registration No.TN-74-AM-6431. He used to eke out his livelihood by hiring the said vehicle to the needy customers and as such, he hired the said vehicle to one Esakki Muthu for the purpose of removing Karuvel trees from his leased property. The petitioner has let out his JCB vehicle on daily rental basis. When the vehicle was working in the above said property, on 24.02.2017 at about 01.00 p.m., the third respondent seized the JCB vehicle on the allegation that there is no valid permit to transport the sand. After the seizure of the vehicle, the third respondent produced it before the 4th respondent and now the said vehicle is kept in the 4th respondent police station. 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 fifth respondent viz., the The Revenue Divisional Officer, Tirunelveli, Tirunelveli District.

4. Admittedly, the petitioner has hired his vehicle to one Esakki Muthu, who has used the same for



transporting karuvel trees which has been taken from his leasehold property. In support of the contention, he has produced the receipt for the payment of the lease 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 24.02.2017 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 fifth 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 fourth respondent is directed to release the seized vehicle bearing Registration No. TN-74-AM-6431 to the petitioner.

(v) The fifth 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,



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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-74-AM-6431 is seized by the third respondent on 24.02.2017, 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.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

3.The Additional Deputy Tahsildar,
Palayamkottai,
Tirunelveli District.

4.The Inspector of Police,
Seevalapperi Police Station,
Tirunelveli District.

5.The Revenue Divisional Officer,
Tirunelveli, Tirunelveli District.

+1cc to M/s.Jeyakarthick, Advocate, SR.18528

+1cc to M/S.Special Government Pleader, SR.18895

W.P. (MD) No.4617 of 2017

27.03.2017

PJL

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