



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE **J.NISHA BANU**

W.P. (MD) No.4990 of 2017

K.Manoharan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

2.The Tahsildar, Taluk Office,
Paramakudi, Ramanathapuram District.

3.The Inspector of Police,
Emaneshwaram Police Station,
Emaneshwaram, Ramanathapuram District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to release the Petitioner's Tipper Lorry bearing registration No.TN-20-AA-0050, seized on 17.03.2017 by the third respondent.

For Petitioner : Mr.D.Senthil
For Respondents : Mr.K.P.Krishnadass
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-20-AA-0050.

2.The petitioner averred among the other things that he is the owner of the Tipper Lorry bearing Registration No.TN-20-AA-0050. He used to eke out his livelihood by hiring the said vehicle to the needy customers and as such, he hired the vehicle for carrying materials for building construction. While so, on 17.03.2017, when the petitioner's vehicle was transporting Gravel Sand (Savuduman) from Valimarichan Quarry with valid permit to Paramakudi, the third respondent Police intercepted the vehicle and seized the same on the allegation that there is no valid permit to transport the sand. In this regard, a case has also been registered in Crime No.63 of 2017 on the file of the third respondent Police. After the seizure of the vehicle, the third respondent produced it before the 1st respondent and now the said vehicle is kept in the Office of the 2nd respondent under the custody of the first respondent. The grievance of the petitioner is that if the said vehicle is kept idle exposing to hot sun and rain, the vehicle 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, Paramakudi.

4. According to the petitioner, he has hired his vehicle for transporting sand with valid permit. In support of the said contention, he has produced the receipt 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 17.03.2017 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 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-20-AA-0050 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 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-20-AA-0050 is seized by the third respondent on 17.03.2017, 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 (Records)

/True copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.
2. The Tahsildar, Taluk Office,
Paramakudi, Ramanathapuram District.
3. The Inspector of Police,
Emaneshwaram Police Station,
Emaneshwaram, Ramanathapuram District.

+1cc to M/S.D.SENTHIL, Advocate SR.No. 17165

W.P. (MD) Nos. 4990 of 2017
23.03.2017

JM/CM MSA/SAR 3/24.03.2017/3P/5C