



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.04.2017
CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

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W.P.(MD)No.5310 of 2017

S. Kumar ... Petitioner
Vs.

1.The Sub Collector,
Devakottai, Sivagangai District,

2.The Regional Transport Officer,
O/o.Regional Transport Office,
Ranipettai, Vellore District,

3.The Thasildar,
Tirupathur, Sivagangai District,

4.The Inspector of Police,
Puzhipathi Police Station,
Thirupathur,
Sivagangai District

... Respondents

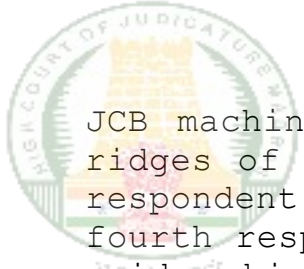
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to release the above JCB machine bearing registration No.73X 7672 under the custody of the fourth respondent by considering and passing appropriate orders on the petitioner's representation dated 05.11.2016 by accepting indemnity or penalty for the release of the above JCB machine to the petitioner.

For Petitioner : Mr.N.R. Balaji
For Respondents : Mr.R. Anandaraj,
Government Advocate

O R D E R

This Writ Petition has been filed seeking for a direction to the third respondent to release the above JCB machine bearing registration No.73X 7672 under the custody of the fourth respondent by considering the petitioner's representation dated 05.11.2016 by accepting indemnity or penalty for the release of the above JCB machine to the petitioner.

2.The petitioner averred among the other things that he is the owner of JCB machine bearing Registration No.TN-73-X-7672. The said machine originally belongs to one K.Venkatesan and due to default committed by him, the vehicle was seized and after the dues, the vehicle was delivered to the petitioner. After taking possession of JCB machine, the petitioner was doing business by hiring the same and on 15.08.2016 when the



JCB machine was at work accidentally it had caused damages to the ridges of the Chinna Goundan Kulam Tank and immediately the third respondent had seized the JCB machine and had given custody to the fourth respondent. The grievance of the petitioner is that if the said vehicle is kept idle exposing to drain 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 had caused damages to the ridges of the Chinna Goundan Kulam Tank. He further submitted that now the matter is pending before the second respondent.

4. According to the petitioner, he has purchased the JCB machine from the ESCORTS construction equipments and in support of the said contention, he has produced the copy of the communication from the said company and copy of the R.C. Book of the original owner.

5. In view of the above and also considering the fact that the Petitioner's JCB machine was seized on 15.08.2016 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 first respondent is directed to release the seized vehicle bearing Registration No. TN-73-x-7672 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 put 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-73-X-7672 is seized by the third respondent on 15.08.2016, 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 (AS)

/True Copy/

Sub-Assistant Registrar

To

1. The Sub Collector, Devakottai, Sivagangai District.
2. The Regional Transport Officer, O/o. Regional Transport Office, Ranipettai, Vellore District,
3. The Thasildar, Tirupathur, Sivagangai District,
4. The Inspector of Police, Puzthipathi Police Station, Thirupathur, Sivagangai District

+One cc to Mr. N.R. Balaji, Advocate, SR.No.54067

CM

RL/6C/3P/RR/SAR2/27.4.2017

W.P. (MD) No.5310 of 2017

25.04.2017