



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :25.04.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7759 of 2017

P.Vadivel

... Petitioner

Vs.

1.The Sub-Collector/Revenue Divisional Officer,
Office of the Sub-Collector/Revenue Divisional Officer,
Dindigul.

2.The Tahsildar,
Dindigul East Taluk,
Dindigul.

3.The Block Development Officer,
Sanarpatti Panchayat Union,
Sanarpatti,
Dindigul District.

4.The Inspector of Police,
Sanarpatti Police Station,
Sanarpatti,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the first respondent herein to release the petitioner's seized vehicles ie., 3 Tipper Lorries bearing Registration No.TN 57-AJ-3352, TN-63-U-9379 and TN-63-AW-0760, one TATA Hitachi Hydraulic Excavator Model EX70 vehicle and one lorry to carry the Hitachi vehicle bearing Registration No.TN-21W 4675 totally five vehicles within the time stipulated by this Court.

For Petitioner
For Respondents

: Mr.J.Lawrance
: Mr.G.Muthukannan,
Government Advocate

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus directing the first respondent herein to release the petitioner's three Tipper Lorries bearing Registration No.TN 57-AJ-3352, TN-63-U-9379 and TN-63-AW-0760, one TATA Hitachi Hydraulic Excavator Model EX70 vehicle and one lorry to carry the Hitachi vehicle bearing Registration No.TN-21W 4675 totally five vehicles, within a stipulated time.



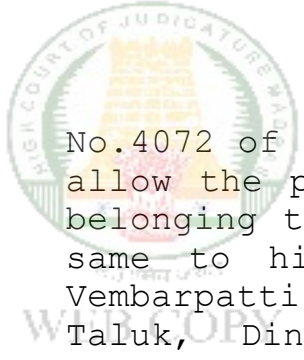
2. Mr.G.Muthukannan, learned Government Advocate takes notice for the respondents.

3. By consent of parties, the main writ petition itself is taken up for final disposal.

4. The petitioner would aver among other things that the land comprised in Survey No.477/1 measuring an extent of 1 ½ acres situated at Vembarpatti Village, Dindigul District, is a Government Poramboke land. The said land is situated nearby Alagar Pudukulam Kanmoi. Originally, the petitioner's father was in possession and enjoyment of the said property since decades. In the said land, his father had raised silk cotton trees, Tamarind Trees and eked out his livelihood and there is vast extent of poramboke land in the above said survey number and so many villagers have been in possession of the said lands.

5. The petitioner would further aver that out of 1 ½ acres of land, the petitioner's father had started manufacturing of bricks in 50 cents of land, without using machineries since last thirty years and it was also called as brick chamber(Kalavasal) and after his death, the petitioner is continuing to do brick business in the said land without any interruption from any quarters. While so, on 29.08.2016, the third respondent had issued a notice to the petitioner directing him to remove the brick chamber stating that it is an encroachment in the Government poramboke land. After receipt of notice, the petitioner had personally met the third respondent and made his representation stating that so many persons have been occupying the said poramboke land, but the petitioner has been targeted and he has specifically stated that the bricks numbering 1,50,000 are lying in the said place and another 1,15,000 raw bricks are also lying and all the above materials would worth more than Rs.5,00,000/- and therefore, he requested the third respondent to grant four months time to remove the materials and shift to his own lands which is situated in Survey No.658/3A measuring an extent of 1.25 acres.

6. But, to the shock and surprise of the petitioner, the third respondent along with other officials came to the brick chamber on 31.10.2016 and with a JCB, crushed all the bricks, which are lying in the chamber and damaged the bricks more fully half of the manufactured bricks were made to pieces and therefore, the petitioner was put to serious financial loss and mental agony. When the petitioner questioned the same, a police complaint was lodged and a criminal case was also registered in Crime No.405 of 2016 and in which, the petitioner also got anticipatory bail and during pendency of the above criminal case, the petitioner was not able to remove the materials lying in the said land. Therefore, he came before this Court and filed a writ petition in W.P(MD)



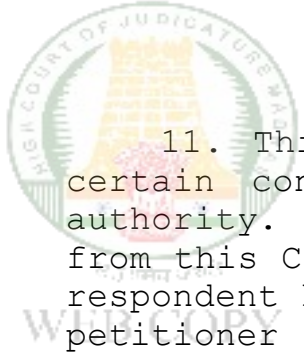
No.4072 of 2017 praying to direct the respondents 2 and 3 herein to allow the petitioner to remove all the bricks and other materials belonging to the petitioner lying in Survey No.477/1 and shift the same to his own land situated in Survey No.658/1 situated at Vembarpatti Village, Sanarpatti Panchayat Union, Dindigul East Taluk, Dindigul District, by granting four months time, by considering his representation dated 20.02.2017, wherein this Court vide order dated 09.03.2017 directed the respondents to consider the petitioner's representation dated 20.02.2017. Based on the order passed by this Court, the third respondent by his proceedings dated 21.03.2017 permitted to remove all the materials belonging to the petitioner from the brick chamber within a period of thirty days. While so, as per the order of the third respondent when the petitioner was removing the materials from the brick chamber, the second respondent came to the spot and stated that the petitioner has not got permission from the Additional Director of Mines and Minerals and seized the vehicles.

7. The learned Government Advocate on instructions submitted that the vehicles have been seized since the petitioner has not got permission from the competent authority, who is Additional Director of Mines and Minerals and also files a report to that effect.

8. But, it is the case of the petitioner that the bricks have been crushed into sand and the petitioner had removed and transported the said sand only, after getting permission from the competent authority. The learned counsel for the petitioner has also produced photographs to that effect.

9. Curiously the petitioner would draw the attention of this Court to the permission granted by the third respondent, wherein a copy has been marked to the Additional Director of Mines and Minerals and knowing fully well, the third respondent has passed the order based on the direction of this Court. But, the second respondent for the reasons best known to him, has seized the petitioner's vehicles.

10. In my considered opinion, the said act of the second respondent is totally abuse of process of law. When the petitioner was doing business in the subject land for decades together the officials has stated that he has to vacate the land as it is a Government poramboke land and for that, though the petitioner is willing to vacate the said land, he has sought for time only to shift the materials and he has not resorted to any act to prolong the steps to vacate the land. Further, in spite of the order passed by the third respondent and a copy being marked to the second respondent, the second respondent has proceeded to seize the vehicles, which had been used for shifting the materials from the premises, where the petitioner was doing business, to his own premises.



11. This Court usually grants release of vehicle by imposing certain conditions to produce the vehicle before the concerned authority. But, in the instant case, after getting due direction from this Court and in consequence of the said direction, the third respondent has passed an order. Based on the said order only, the petitioner was removing the materials from the subject property. Therefore, this Court is not inclined to impose any condition rather to direct the second respondent to release the vehicles of the petitioner seized by the second respondent forthwith.

Accordingly, this Writ Petition is allowed. No Costs.

SD

ASST REGISTRAR (P AND A)

TRUE COPY

SUB ASST REGISTRAR

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To,

- 1.The Sub-Collector/Revenue Divisional Officer,
Office of the Sub-Collector/Revenue Divisional Officer,
Dindigul.
- 2.The Tahsildar,
Dindigul East Taluk,
Dindigul.
- 3.The Block Development Officer,
Sanarpatti Panchayat Union,
Sanarpatti,
Dindigul District.
- 4.The Inspector of Police,
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Sanarpatti,
Dindigul District.

1CC TO MR. J. LAWRANCE, ADVOCATE SR: 54068

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