



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2017

CORAM:

WEB COPY

THE HON'BLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.7806 of 2017

G.Alwar

... Petitioner

Vs.

1. The Sub Collector,
Thoothukudi District,
Thoothukudi.

2. The Thasildhar,
Srivaikundam Taluk,
Thoothukudi District.

3. The Village Administrative Officer,
Thirupani Chettikulam Village,
Thoothukudi District.

... Respondents

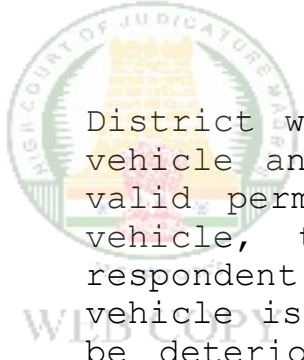
Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondent Nos.1 and 2 to release the Tipper Lorry bearing Registration No.TN 49 P 2855 seized on 05.03.2017 by the third respondent from the petitioner.

For Petitioner	: Mr.S.M.Mohan Gandhi
For Respondents	: Mr.T.R.Janarthanam Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the respondent Nos.1 and 2 to release the Tipper Lorry bearing Registration No.TN 49 P 2855 seized on 05.03.2017 by the third respondent from the petitioner.

2.The petitioner averred among the other things that he is the owner of the Tipper Lorry bearing Registration No.TN-49-P-2855. 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 rough stone. While so, on 05.03.2017, when the petitioner's vehicle was transporting clay at Thiruppani Chettykulam Water Channel, Srivaikundam Taluk, Thoothukudi



District with valid permit, the third respondent intercepted the vehicle and seized the same on the allegation that there is no valid permit to transport the clay. After the seizure of the vehicle, the third respondent produced it before the second 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 clay without valid permit. He further submitted that now the matter is pending before the second respondent.

4. According to the petitioner, he has hired his vehicle for transporting clay with valid permit. In support of the said contention, he has produced the Good Permit receipt.

5. In view of the above and also considering the fact that the Petitioner's vehicle was seized on 05.03.2017 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-49-P-2855 to the

(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 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-49-P-2855 is seized by the third respondent on 05.03.2017, 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 (AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Collector,
Thoothukudi District,
Thoothukudi.
2. The Thasildhar,
Srivaikundam Taluk,
Thoothukudi District.
3. The Village Administrative Officer,
Thirupani Chettikulam Village,
Thoothukudi District.

+ 1 CC TO Mr.S.M.MOHAN GANDHI, ADVOCATE IN SR No. 54488

RJ2

TE/JC/SAR-II : 28/04/2017 : 3P/5C

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