

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.16826 of 2008

Abdul Sattar,

... Petitioner

Vs.

1. The District Collector,
Cuddalore District
Cuddalore.

2. The District Revenue Officer,
Chidambaram.

3. The Tahsildar,
Chidambaram Taluk,
Chidambaram.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the issue of order dated 25.06.2008 duly issued in proceedings bearing Na.Ka.A4/2510/08 duly issued by the District Revenue Officer, Chidambaram and quash the same. (Prayer amended as per order dated 25.07.2008 in M.P.No.2 of 2008 in W.P.No.16826 of 2008).

For Petitioner : Mr.D.Ashok Kumar

For Respondents : R.S.Selvam
Government Advocate

O R D E R

This Writ Petition has been filed to call for the records pertaining to the issue of order dated 25.06.2008 duly issued in proceedings bearing Na.Ka.A4/2510/08 duly issued by the District Revenue Officer, Chidambaram and to quash the same.

2. The case of the petitioner is that on 10.06.2008, when he had transported debris, comprised of mud and bricks, through his tractor bearing Registration No.TN31 R 0174, from his land situated near his residence, in order to fill the burrows just in front of his brother's residence and to level the land, the 3rd respondent herein had seized the vehicle by claiming that

such transportation can be made only through a licence. Thereafter, a communication in Na.Ka.A4/2510/08 dated 16.06.2008 was issued to the petitioner by the District Revenue Officer, the 2nd respondent herein, stating that the transportation made by the petitioner was without proper licence and hence, sought for explanation from the petitioner within two days, directing him to appear before the 2nd respondent and to submit a written explanation.

3. The petitioner had sent his explanation on 19.06.2008, claiming that the mud was taken only from his own land to fill the burrows in front of his brother's residence. However, the 2nd respondent, based on the complaint lodged by the 3rd respondent, had issued further communication on 25.06.2008, stating that the transportation made by the petitioner, is punishable under Section 36A(1)(2) and (5) of the Tamil Nadu Minor Mineral Rules, and thereby, the petitioner is liable to pay fine of Rs.25000/-. Hence, the petitioner, with no other alternative, has filed this Writ Petition on 14.07.2008 for directing the respondents to return his tractor bearing Registration No.TN-31-R-0174 duly confiscated by the 3rd respondent on 10.06.2008, and thus, restore the possession of the same

4. An interim order was granted by this Court on 25.07.2008 in M.P.No.1 of 2008, to release the petitioner's tractor bearing Registration No.TN31 R 0174, on condition that the petitioner should remit a sum of Rs.15,000/- before the 2nd respondent. Accordingly, the petitioner has complied with the order and his tractor was also released by the respondents.

5. Later, as per the order of this Court dated 25.07.2008 made in M.P.No.2 of 2008, the petitioner was granted permission to amend the prayer instead of the earlier prayer he sought for in this Writ Petition:

"Writ of Certiorari to call for the records pertaining to the issue of order dated 25.06.2008 duly issued in proceedings bearing Na.Ka.A4/2510/08 by the District Revenue Officer, Chidambaram and quash the same."

6. The learned counsel for the petitioner seeks some consideration from the respondents, as the fine amount is huge.

7. The learned Government Advocate appearing for the respondents would submit that appeal remedy is available for the petitioner herein and he could have approached the Collector, instead of filing this Writ Petition.

8. The learned counsel for the petitioner would seek liberty to approach the Collector for consideration of his claim.

9. In view of the above, the Writ Petition is disposed of and the petitioner is directed to give a representation before the 1st respondent herein within a period of 2 weeks from the date of receipt of a copy of this order. The 1st respondent is directed to consider the petitioner's representation on merits and as per law, and dispose of the same within a period of 3 months from the date of receipt of the representation of the petitioner. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Cuddalore District
Cuddalore.
2. The District Revenue Officer,
Chidambaram.
3. The Tahsildar,
Chidambaram Taluk,
Chidambaram.

+1cc to M/S.D.Ashok kumar, Advocate Sr.48713
+1cc to the Government Pleader Sr.48532

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