

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
AND

THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P. No. 34672 of 2018

and

W.P.No.34553 of 2018

W.P. No.34672 of 2018:-

M.Chakravarthi

...Petitioner

Vs.

1. The Assistant Director
Department of Geology and Mining
Thiruvallur District

2.The Revenue Development Officer
Thriuvallur
Thiruvallur District

3.The Tahsildar
Thiruvallur
Thiruvallur District

4.The Inspector of Police
Poonamallee Police Station
Poonamallee
Thiruvallur District

...Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to release the petitioner's vehicle Tipper Lorry, bearing Reg.No.TN-22-CY-7744, based on the representation given on 05.12.2018, following the guidelines issued by the Division Bench of this Court.

W.P. No.34553 of 2018

Loganathan

...Petitioner

Vs.

1. The Revenue Divisional Officer
O/o.Revenue Divisional Officer
Mettur Taluk
Salem District

2.The Assistant Director of Geology and Mining
O/o.Salem District Collector's Office
Salem District, Salem

3.The Inspector of Police
Tharamangalam Police Station
Salem District

...Respondents

Prayer: Writ Petition filed under Article of 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to release the Tarras Lorry bearing No.TN-52-1389 to the petitioner in the light of the orders passed in W.P.(MD).Nos.22023 to 22026 of 2018 etc by the Honourable Madurai Bench of Madras High Court dated 29.10.2018.

For Petitioner
in WP.34672/2018 : Mr. G.B.Motcham

For Petitioner
in WP.34553/2018 : Mr.M.Senthilkumar

For Respondents
in both WPs : Mr. V.Jayaprakash Narayanan
Government Pleader (In-charge)

COMMON ORDER

(Order of the Court was made by S. VAIDYANATHAN, J.)

The sum and substance of the issue involved in these writ petitions is with regard to the seizure of vehicles alleged to be involved in the illegal transportation of sand and sand quarry in the river.

2. The Madurai Bench of this Court has passed two orders, one in W.P.(MD) Nos.22023 to 22026 of 2018 etc batch, dated 29.10.2018 and another order in W.P.(MD).No.19936 of 2017 etc batch, dated 29.10.2018, imposing certain conditions, including conditions for release of vehicles.

3. In the first order stated above, dated 29.10.2018 passed in W.P.(MD).Nos.22023 to 22026 of 2018 etc batch, one of the conditions is that the lorry owners will have to deposit a sum of Rs.50,000/- before the Tahsildar concerned as non refundable deposit, so that the concerned Authority can consider the request of the petitioners for releasing the seized vehicles. Further, the Division Bench of this Court directed the Tahsildar

concerned to file a private complaint in terms of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before the jurisdictional Court within a period of one week from the date of receipt of a copy of the said order. The Division Bench further observed that the observation will apply to those cases, where FIRs have been registered by the jurisdictional police for the offences under Section 379 IPC, in which case, the vehicles will be produced before the jurisdictional Magistrate. In such cases, the jurisdictional Tahsildars, on receipt of the same shall file private complaint for the alleged violation under the Mines and Minerals (Development and Regulation) Act, 1957. The Police concerned will have to give such due intimation, within a period of one week. The petitioners therein were directed to produce the vehicles before the trial court as and when required.

4. In the second order passed by the Madurai Bench of this Court in W.P.(MD).No.19936 of 2017 etc batch, the Division Bench pointed out that in so far as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court, by the revenue authorities at the time of filing their respective complaints and that any application for release of vehicle etc, can only be filed before the Special Court. Thus, as far as the release of vehicle is concerned, the Madurai Bench of this court observed that on complying the conditions stated in the order dated 29.10.2018 in WP(MD).No.19936 of 2017 etc batch, the Special court would consider the release of vehicle.

5. It has been represented by the learned counsel appearing on either side that the Special Court has not been constituted and that the request made by the one of the lorry owners with regard to the release of vehicle based on the order of Madurai Bench of this Court dated 29.10.2018 was rejected by the learned Judicial Magistrate, Thiruvottiyur, in the order passed in CMP No.6568 of 2018 in Crime No.1128 of 2018 on the ground that the Court has no jurisdiction and that they have to approach the Special Court.

6. In view of the above, more particularly taking note of the fact that Special Courts have not yet been constituted in terms of the order dated 29.10.2018 passed in W.P.(MD).No.19936 of 2017 etc batch, this Court hereby directs the learned Jurisdictional Magistrates to consider the request for release of vehicles and pass appropriate orders in accordance with law. It is open to the writ petitioners to approach the jurisdictional court. We make it clear that the above condition/concession shall be effective only till the constitution of the Special Courts.

In the result, these writ petitions stand disposed of with the above directions. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri/ssm

To

1. The Assistant Director
Department of Geology and Mining
Thiruvallur District
2. The Revenue Development Officer
Thiruvallur
Thiruvallur District
3. The Tahsildar
Thiruvallur
Thiruvallur District
4. The Inspector of Police
Poonamallee Police Station
Poonamallee
Thiruvallur District
5. The Revenue Divisional Officer
O/o. Revenue Divisional Officer
Mettur Taluk
Salem District
6. The Assistant Director of Geology and Mining
O/o. Salem District Collector's Office
Salem District, Salem
7. The Inspector of Police
Tharamangalam Police Station
Salem District
8. The Registrar General
High Court, Madras 104
(for necessary action)

9. The Section officer

" F" Section, High Court, Madras 104.

(A copy of this order is to be circulated to all Judicial Magistrate in the state of Tamil Nadu)

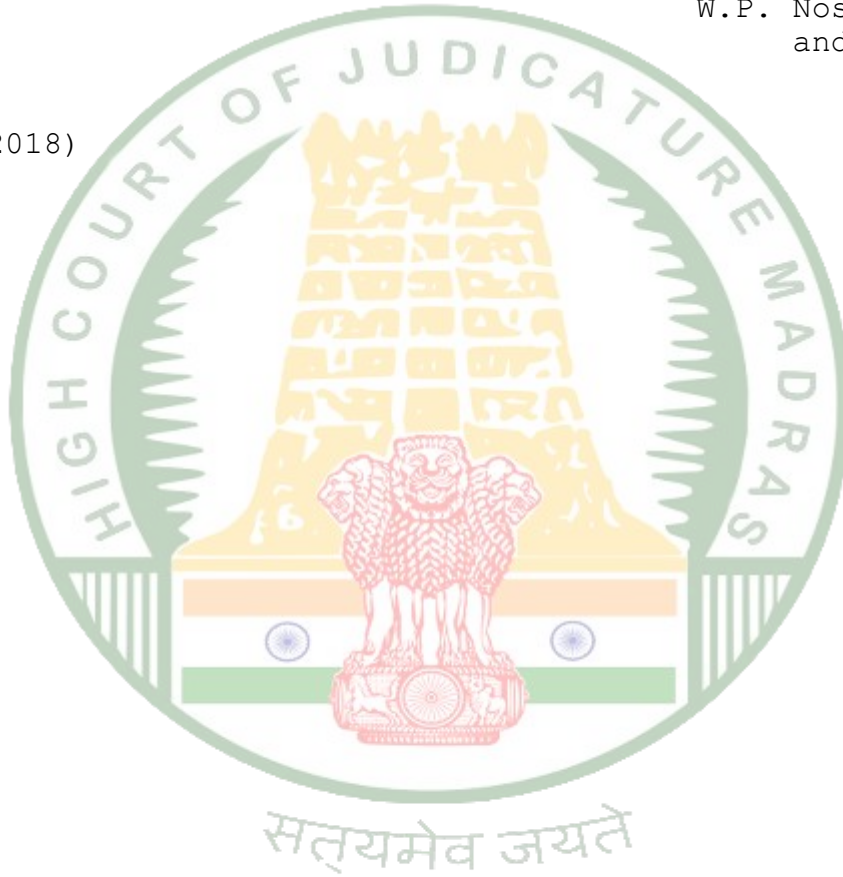
+1 CC to Mr.M.Senthilkumar, Advocate sr 90111.

+1 CC to Mr.G.B. Motcham, Advocate sr 90110.

+1 Ccs to Govt. Pleader sr 90108, 90103.

W.P. Nos.34672/2018
and 34553/2018

SP(31/12/2018)



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