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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD) Nos.18606, 18802, 20487, 20259, 20948, 18917, 18428, 18429,
18958 of 2018

and
16754, 16305, 16306 and 16782 of 2018

In W.P. (MD) .No.18606 of 2018:

R.A.Durai .. Petitioner

-vs-

1.The Sub Collector,
I Class Administrative Magistrate,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st respondent to release the petitioner's tipper Lorry bearing Registration No.TN 28 AH 8242 within the time stipulated by this Court.

For Petitioner : Mr.Babu Rajendran

For Respondents : Mr.B.Pugalendhi
Additional Advocate General
assisted by Mr.A.K.Baskarapandian
Special Government Pleader

WP (MD) . 18802/ 2018

K.ARIVALAGAN

.. Petitioner

- Vs. -

1.THE REVENUE DIVISIONAL OFFICER LALGUDI, TRICHY DISTRICT.

2. THE INSPECTOR OF POLICE, LALGUDI POLICE STATION,
TRICHY DISTRICT.

... Respondents

**Prayer in WP(MD) . 18802/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 1st respondent to release the petitioners Lorry bearing Registration No.TN-01-K-8789 seized by the 2nd respondent on 10/08/2018 to the petitioner.

For Petitioner :Mr.T.Lenin Kumar
For Respondents :Mr.B.Pugalendhi, AAG
assisted by
Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

WP(MD) . 20487/ 2018 :

A.MANI

... Petitioner

- Vs. -

1.THE REVENUE DIVISIONAL OFFICER DEVAKOTTAI, SIVAGANGAI DISTRICT.

2.THE INSPECTOR OF POLICE KUNDRAKUDI POLICE STATION,

SIVAGANGAI DISTRICT.

... Respondents

Prayer in WP(MD) . 20487/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus directing the 1st respondent to release the petitioners Lorry bearing Registration No.TN-47-W-5989 seized on 17.09.2018 by the 2nd respondent, to the petitioner.

For Petitioner :Mr.T.Lenin Kumar
For Respondents :Mr.B.Pugalendhi, AAG
assisted by
Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

WP(MD) . 20259/ 2018

S. VADIVEL

... Petitioner

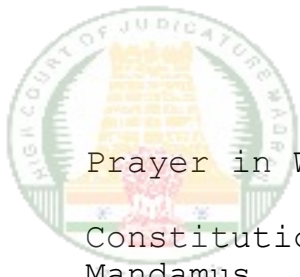
- Vs. -

1.THE REVENUE DIVISIONAL OFFICER DEVAKOTTAI, SIVAGANGAI DISTRICT.

2.THE INSPECTOR OF POLICE, KUNDRAKUDI POLICE STATION,

SIVAGANGAI DISTRICT.

... Respondents



Prayer in WP(MD). 20259/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to release the petitioners Lorry bearing Registration No. TN-05-Q-4023 seized by the 2nd respondent on 02.09.2018, to the petitioner.

For Petitioner :Mr.T.Lenin Kumar

For Respondents :Mr.B.Pugalendhi, AAG

assisted by

Mr.A.K.Baskara Pandian

Spl.Govt.Pleader

WP(MD). 20948/ 2018

J.JOSEPH STEPHAN

... Petitioner

- Vs. -

1.THE DISTRICT COLLECTOR, PUDUKKOTTAI DISTRICT.

2.THE REVENUE DIVISIONAL OFFICER PUDUKKOTTAI,
PUDUKKOTTAI DISTRICT.

3.THE TAHSILDAR, THIRUMAYAM TALUK, PUDUKKOTTAI DISTRICT.

4.THE INSPECTOR OF POLICE THIRUMAYAM POLICE STATION,
PUDUKKOTTAI DISTRICT.

... Respondents

Prayer in WP(MD). 20948/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of mandamus direction the respondents to release the petitioners vehicle (Tipper) bearing registration No.TN-63Q-7214 which is under the custody of the 4th respondent immediately.

For Petitioner :Mr.V.Panneer Selvam

For Respondents :Mr.B.Pugalendhi, AAG

assisted by

Mr.A.K.Baskara Pandian

Spl.Govt.Pleader

WP(MD). 18917/ 2018

P.RAJAN

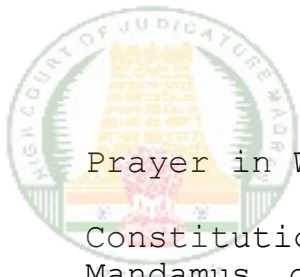
... Petitioner

- Vs. -

1.THE SUB COLLECTOR DEVAKOTTAI, SIVAGANGAI DISTRICT.

2.THE INSPECTOR OF POLICE ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.

... Respondents



Prayer in WP(MD). 18917/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to release the Tipper Lorry bearing registration No. TN 47 AH 6690, seized on 13.08.2018, which is in the custody of the Respondents by considering the representation of the petitioner dated 21.08.2018 within a time frame that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.S.C.Herold Singh
For Respondents :Mr.B.Pugalendhi, AAG
assisted by
Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

WP(MD). 18428/ 2018:

S.RAMESH

... Petitioner

- Vs. -

- 1.THE SUB COLLECTOR, DEVAKOTTAI, SIVAGANGAI DISTRICT.
- 2.THE INSPECTOR OF POLICE ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.

... Respondents

Prayer in WP(MD). 18428/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent to release the Tipper Lorry bearing registration No.TN 48 AF 0660, seized on 13/08/2018, which is in the custody of the Respondent by considering the representation of the petitioner dated 14/08/2018 within a time that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.S.C.Herold Singh
For Respondents :Mr.B.Pugalendhi, AAG
assisted by
Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

WP(MD). 18429/ 2018:

T.VIJAYAKUMAR

... Petitioner

- Vs. -

- 1.THE SUB COLLECTOR, DEVAKOTTAI, SIVAGANGAI DISTRICT.
- 2.THE INSPECTOR OF POLICE, ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.

... Respondents



Prayer in WP(MD). 18429/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent to release the Tipper lorry bearing registration No.TN 47 AH 9126, seized on 13.08.2018, which is in the custody of the respondent by considering the representation of the petitioner dated 14.08.2018 within a time that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.S.C.Herold Singh

For Respondents :Mr.B.Pugalendhi, AAG

assisted by

Mr.A.K.Baskara Pandian

Spl.Govt.Pleader

WP(MD). 18958/ 2018:

K.VINUKUMAR

... Petitioner

- Vs. -

1.THE SUB COLLECTOR, DEVAKOTTAI, SIVAGANGAI DISTRICT.

2.THE INSPECTOR OF POLICE ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.

... Respondents

Prayer in WP(MD). 18958/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to release the Tipper lorry bearing registration No. TN 45 BJ 7018, seized on 13.08.2018, which is in the custody of the 1st respondent by considering the representation of the petitioner dated 21.08.2018 within a time frame that may be stipulated by this Hon'ble Court.

For Petitioner :Mr.S.C.Herold Singh

For Respondents :Mr.B.Pugalendhi, AAG

assisted by

Mr.A.K.Baskara Pandian

Spl.Govt.Pleader

COMMON ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

Since the issue involved in these cases is one and the same, these cases are disposed of by way of a common order.

<https://hcservices.ecourts.gov.in/hcservices/>

2.These writ petitions have been filed seeking direction to the concerned respondent to release the respective petitioner's



vehicles.

3. Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the respective respondents.

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4. According to the petitioners, the official respondents seized the vehicles in question on the ground of illegal transportation of sand and till date no order has been passed by the respondents concerned. Hence, these writ petitions have been filed.

5. On the other hand, it is submitted by the learned Additional Advocate General appearing for the respective respondents that the vehicles in question were used for illegal transportation of mines and minerals like sand, gravel etc., and hence they were seized.

6. In any event, as the vehicles are under the custody of the respondents from the date of seizure and considering the fact that if the same are allowed to be kept idle by exposing the same to sun and rain, it would certainly diminish their value. Therefore, this Court is of the view that the vehicles may be released by imposing conditions on the petitioners.

7. Accordingly, the concerned respondents are directed to release the vehicles in question to the petitioners within a period of 7 days from the date of receipt of a copy of this order, subject to the following conditions:

"(i) The petitioners shall produce necessary documents before the respondents to establish the ownership of the vehicles in question;

(ii) Each petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only), before the Tahsildar concerned as non refundable deposit;

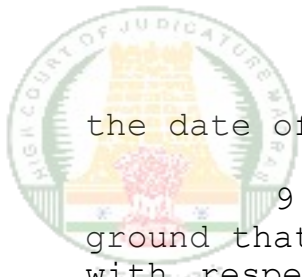
(iii) The petitioners shall give an undertaking that they will not use the vehicles for any illegal activities in future and shall produce the same as and when required by the respondents;

(iv) On doing so, the vehicles in question shall be returned to the petitioners;

(v) The petitioners shall not alienate the vehicles in question till the disposal of the proceedings before the authority concerned; and

(vi) The petitioners are also directed to participate in the enquiry to be conducted by the respondents."

8. The Tahsildar concerned is further directed to file a private complaint in terms of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, before the jurisdictional Court. This will have to be done within a period of one week from



the date of receipt of a copy of this order.

9. We make it clear that this order is passed only on the ground that a final order will have to be passed on the larger issue with respect to the maintainability of the writ petitions before this Court vis-a-vis, the right of the revenue officials in realizing and adjudicating such reliefs by exercising power under Rule 36 as against Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, and therefore, this order cannot be taken as a precedent.

10. Further we direct the petitioners to produce their respective vehicles before the trial Court as and when required, failing which, the Court is at liberty to confiscate the same.

11. Similarly, the same observation will apply to those cases, where First Information Reports have been registered by the jurisdictional police for the offence under Section 379 IPC., in which case, the vehicles will have to be produced before the jurisdictional Magistrate. In such cases, the jurisdictional Tahsildars, on receipt of the same shall file private complaints 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 from the date of receipt of a copy of this order.

12. We further make it clear that the order is only for release of vehicles and not for releasing of the mines and minerals transported illicitly.

13. After receipt of the above said amount, the same will have to be deposited by the Tahsildar concerned, to the credit of the District Mines and Minerals Foundation Trust as non refundable deposit.

14. With the above observations and directions, these writ petitions are disposed of. No Costs. Consequently, WMP (MD) Nos. 16754, 16305, 16306 and 16782 of 2018 are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

TO

1. THE SUB COLLECTOR,
I CLASS ADMINISTRATIVE MAGISTRATE,
DEVAKOTTAI, SIVAGANGAI DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>

2. THE INSPECTOR OF POLICE,
NERKUPPAI POLICE STATION, SIVAGANGAI DISTRICT.



3. THE REVENUE DIVISIONAL OFFICER,
LALGUDI, TRICHY DISTRICT.

4. THE INSPECTOR OF POLICE,
LALGUDI POLICE STATION, TRICHY DISTRICT.

5. THE REVENUE DIVISIONAL OFFICER,
DEVAKOTTAI, SIVAGANGAI DISTRICT.

6. THE INSPECTOR OF POLICE,
KUNDRAKUDI POLICE STATION, SIVAGANGAI DISTRICT.

7. THE DISTRICT COLLECTOR, PUDUKKOTTAI DISTRICT.

8. THE REVENUE DIVISIONAL OFFICER,
PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.

9. THE TAHSILDAR, THIRUMAYAM TALUK,
PUDUKKOTTAI DISTRICT.

10. THE INSPECTOR OF POLICE, THIRUMAYAM POLICE STATION,
PUDUKKOTTAI DISTRICT.

11. THE SUB COLLECTOR, DEVAKOTTAI, SIVAGANGAI DISTRICT.

12. THE INSPECTOR OF POLICE,
ULAGAMPATTI POLICE STATION, SIVAGANGAI DISTRICT.

+3CCs TO MR. LENIN KUMAR, ADVOCATE IN
SR.Nos. 92850, 92851, 92852.

+4CCs TO MR. S. C. HEROLD SINGH, ADVOCATE IN
SR.Nos. 93068, 93069, 93070, 93072.

+1CC TO MR. V. PANNEER SELVAM, ADVOCATE IN SR.NO. 93058.

+1CC TO MR. BABU RAJENDRAN, ADVOCATE IN SR.NO. 93305.

+1CC TO MR. A. SHAJAKAN, ADVOCATE IN SR.NO. 92810.

MJ

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W.P. (MD) Nos. 18606, 18802, 20487, 20259, 20948,
18917, 18428, 18429, 18958 of 2018