

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.995/2019

K.Sathishkannan .. Petitioner

Vs.

1.The Collector
Thiruvallur District, Tiruvallur.

2.The Revenue Divisional Officer
Thiruvallur District, Thiruvallur.

3.The Tahsildar
Poonamallee Taluk
Thiruvallur District, Thiruvallur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to release the petitioner's Tipper Lorry bearing Registration No.TN-22-AY-1609 seized on 15.09.2018 by the 3rd respondent on 15.09.2018 in a time bound period.

For Petitioner : Mr.K.Mohanamurali
For Respondents : Mr.A.Ansar, GA

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims to be the owner of Tipper Lorry bearing Reg.No.TN-22-AY-1609, Engine Number 697TC56BSZ108066, Chassis Number 373135BSZ708384 and according to him, when he took his vehicle at about 7.00 p.m on 15.09.2018 for transporting clay and savudu sand with valid permit/permission, the said vehicle has been seized by the third respondent on the

ground of alleged transportation of said sand without any valid permit/authorization. In this regard, the petitioner has also submitted a representation dated 16.09.2018 to the 2nd respondent requesting for return of the vehicle and however it is yet to be favoured with any kind of response.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that in the light of overwhelming materials made available, it cannot be said that savudu sand has been illegally transported and since the vehicle has been seized as early as on 15.09.2018 and parked in open space,

there is likelihood of getting rusted or damaged on account of vagaries of weather. It is also submitted by the learned counsel that the said vehicle has been purchased by availing loan and that non-operation of the same would put the petitioner in extreme difficulty to service the loan and therefore, the petitioner is left with no other alternative except to approach this Court by filing this writ petition praying for appropriate direction.

4. Per contra, Mr.A.Ansar, learned Government Advocate , who accepts notice on behalf of the respondents, would submit that on account of illegal transportation of savudu sand without any valid permission/authorization, the 3rd respondent has rightly seized the vehicle and registered the case and therefore, opposed the release of the vehicle. It is also submitted that a case has been registered in Cr.No.1331/2018 by the concerned police.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, in the light of the submissions made coupled with the facts and circumstances, is inclined to order the release of the vehicle in question, by way of interim custody to the petitioner, subject to the following conditions:

- (i) The petitioner shall produce relevant documents before the respondents to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) to the credit of Crime No.1331 of 2018 on the file of the Court of Judicial Magistrate No.2, Poonamallee ;
- (iii) The petitioner shall give an undertaking that he will not use the vehicle for any other illegal/unlawful activities in future and he will not alienate/encumber the vehicle in question till the disposal of the proceedings before the authority concerned and he will produce the same

as and when required by the respondent police/jurisdictional Magistrate.

(iv) The petitioner shall also execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties in a like sum to the satisfaction of the respondents/respondent police/jurisdictional Magistrate.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Tipper Lorry bearing Reg.No.TN-22-AY-1609, Engine Number 697TC56BSZ108066, Chassis Number 373135BSZ708384 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondents to initiate appropriate action for seizure of the vehicle. It is also made clear that this Court has not ordered the release of contraband said to have been transported in the said vehicle.

8. This Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Collector
Thiruvallur District, Tiruvallur.

2.The Revenue Divisional Officer
Thiruvallur District, Thiruvallur.

3.The Tahsildar
Poonamallee Taluk
Thiruvallur District, Thiruvallur.

+1cc to Mr.K.Mohanamurali, Advocate sr.no.8921
+1cc to Government Pleader sr.no.9172

W.P.No.995/2019

nr 04/03/2019