

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.1183/2019

R.Veerapandiyan .. Petitioner

Vs.

1.The Sub Collector
Thirukoilur, Villupuram District.

2.The Tahsildar
Ulundurpet, Villupuram District.

3.The Sub Inspector of Police
Ulundurpet Police Station
Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents herein to release the lorry bearing Regn.No.TN-23-D-7527 seized by the 3rd respondent on 25.09.2018 and hand over the same to the petitioner forthwith.

For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.E.Manoharan, AGP

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 Ashok Leyland/1616/Tusker bearing Reg.No.TN-23-D-7527 Engine Number QKE310330 Chassis Number QKE422543 and according to him, pursuant to the valid permit issued by the Deputy Director of

Geology and Mining, Villupuram and also the Transport Permit issued by the very same official on 25.09.2018, he was transporting pebbles and however, alleging that the said material has been transported illegally, without any valid permit, the 3rd respondent had seized the vehicle along with the mineral/contraband on 25.09.2018 and also prepared the report on that day, wherein it has been indicated that the mineral as well as the vehicle has been handed over to the custody of the 2nd respondent. In this regard, the petitioner has also submitted a representation dated 13.12.2018 to the Collector, Villupuram District, requesting for return of the vehicle and however it is yet to be favoured with any kind of response. Praying for the release of the vehicle on the ground that the mineral was transported legally, the petitioner came forward to file the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that admittedly, the jurisdictional Deputy Director of Geology and Mining, has accorded permission to transport the same and the driver of the vehicle was also in possession of the said documents and without verifying the same, a false allegation has been made as if the said mineral has been transported with any legal or legal permit and though the report of the 2nd respondent would state that the vehicle along with the contraband had been forwarded to the jurisdictional Tahsildar, the 2nd respondent herein, the fact remains that the vehicle continues to be parked in the 3rd respondent police station in an open space and therefore, it is open to vagaries of weather and as a consequence, the value and utility of the vehicle is going down day by day. It is the submission of the learned counsel for the petitioner that since the petitioner is eking out his livelihood out of the income generated by operating the said vehicle and that he has been deprived of the same on account of the seizure of the vehicle, this Court may pass appropriate orders for early release of the vehicle.

4 Per contra, Mr.E.Manoharan, learned Additional Government Pleader appearing for the respondents would submit that since the mineral was transported without any valid permit, it was seized and subsequently FIR in Cr.No.*14/2019 came to be registered and the investigation is on and opposed the release of the vehicle.

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

6 A perusal of the typed set of documents would prima facie disclose that the jurisdictional Deputy Director of Geology and Mining, Villupuram, had given the transport permit to transport pebbles and it should be delivered to the place of delivery by 26.09.2018 and even on 25.09.2018, at about 10.00 am., the vehicle was seized by the 3rd respondent on the alleged pretext of transportation of the same without any valid license or permit. Though the Report of the 3rd respondent dated 25.09.2018 would indicate that the seized vehicle along with the contraband had been sent to the 2nd respondent, the fact remains that it continues to be parked in the premises of the 3rd respondent and that apart, FIR also came to be registered very belatedly only in the year 2019 in Cr.No.*14/2019.

7 This Court, in the light of the submissions made coupled with the facts and circumstance is of the considered view that the vehicle in question seized by the 3rd respondent said to be in the custody of the 2nd respondent, is to be released. Accordingly, this Court is inclined to release 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 Cr.No.*14/2019 on the file of the 3rd respondent police ;
- (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.

8 On complying with the conditions imposed in this writ petition, the respondent is directed to release the Tipper Lorry bearing Reg.No.TN-23-D-7527 Engine Number QKE310330 Chassis Number QKE422543 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.

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

Sd/-
Assistant Registrar
Dated:15/02/2019

*Amended as per order
of this Court dated 21/2/2019
in W.P.No.1183/19
Sd/-
Assistant Registrar
Dated 26/02/2019

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Sub Collector
Thirukoilur, Villupuram District.
- 2.The Tahsildar
Ulundurpet, Villupuram District.
- 3.The Sub Inspector of Police
Ulundurpet Police Station,
Villupuram District.

To be substituted to
the order already
despatched on
20/02/2019

+1 cc to Mr.S.Saravana Kumar, Advocate Sr.No*16360
+1 cc to The Government Pleader, Sr.No.9163

सत्यमेव जयते

W.P.No.1183/2019

CSL/15.02.2019
srg 27/02/2019

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