

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2019

CORAM :

THE HON'BLE MR.JUSTICE R.SUBBIAH
AND
THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

WRIT PETITION NO.3552 OF 2019

Rajendiran

...Petitioner

Vs.

1. The Assistant Director,
Geology and Mining,
Collectorate, Villupuram - 605 602.

2. The State rep. by
Inspector of Police,
Elavanasur Kottai Police Station,
Villupuram.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the respondents to release the petitioner's Ashok Leyland Heavy Goods Lorry bearing Registration No. TN 31 AZ 9412, Chassis No. YP E6 24 266 and Engine No. YPH467219, which is a goods carrying in accordance with law.

For Petitioner : Mr.S.Paneer Selvam

For Respondents : Mr. J.Pothiraj,
Special Government Pleader

ORDER

Krishnan Ramasamy, J.,

The petitioner has filed this Writ Petition seeking for a direction upon the respondents to release the lorry bearing Registration No. TN 31 AZ 9412 to him.

2. The case of the petitioner is that, he is the absolute

owner of the lorry in question. On 21.12.2018, he purchased 3.5 units of M-Sand for his own use from a sand quarry in Puudukottai and the same was loaded in his lorry for being transported from Pudukottai to Tiruvannamalai. When the Vehicle was on its way to Thiruvannamalai, at Puthumangalam, the vehicle was intercepted by the first respondent, Assistant Director, Geology and Mining, /Police, and seized the vehicle along with M-Sand standing that the M-Sand was being transported illegally without any valid permit, and handedover the vehicle to the second respondent/Police and now, the vehicle is in the custody of the second respondent/Police and till date, no orders has been passed by the respondent concerned. Hence, the petitioner is constrained to file this Writ Petition seeking appropriate direction for release of his Lorry forthwith, as he is in need of the vehicle for his day to day business activities and for agricultural purpose.

3. Mr.S.Paneer Selvam, learned counsel appearing for the petitioner submits that an identical prayer was considered by the Hon'ble Madurai Division Bench of this Court, in a batch of Writ Petitions, viz., W.P.(MD) Nos.18806, 18802, etc., of 2018, which were disposed of, by a common order dated 29.10.2018, whereby, the vehicle was ordered to be released. The learned counsel also produced a photostat copy of the said order for reference before this Court and prays that similar direction may be issued in this Writ Petition as well, which the petitioner is ready and willing to abide. The learned counsel also submitted that, if the interim custody of the vehicle is not ordered, the vehicle will be exposed to sun and rain and the value of the vehicle will be deteriorated.

4. Mr. J.Pothiraj, learned Special Government Pleader, who accepts notice on behalf of the respondents submits that the Writ Petition shall be disposed of imposing the same conditions as stipulated in the Writ Petition relied upon by the learned counsel appearing for the petitioner.

5. Thus, in the light of the submissions made coupled with the facts and circumstance, we are inclined to order for release of the Vehicle in question by way of interim custody to the petitioner by imposing certain conditions on the petitioners.

6. Accordingly, the concerned respondent is directed to release the vehicle in question to the petitioner within a period of seven days from the date of receipt of a copy of this order, subject to the following conditions:-

i) The petitioner shall produce relevant documents before the respondent/Police to establish the ownership of the Vehicle, in question;

ii) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) before the Tahsildar concerned as non refundable deposit;

iii) The petitioner shall file an affidavit of undertaking to the effect that they will not use the above referred vehicle for any other illegal/unlawful activities in future, and shall produce the same as and when required by the respondents;

iv) On doing so, the vehicle in question shall be returned to the petitioner;

v) The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;

and

vi) The petitioner is also directed to participate in the enquiry to be conducted by the respondents.

7. 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.

8. Further, we direct the petitioner to produce the vehicle before the trial Court as and when required, failing which, the Court is at liberty to confiscate the same.

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

10. 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.

11. With the above observations and directions, the Writ Petition stands disposed of. No costs.

sd

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Director,
Geology and Mining,
Collectorate, Villupuram - 605 602.
2. The Inspector of Police,
Elavanasur Kottai Police Station,
Villupuram.

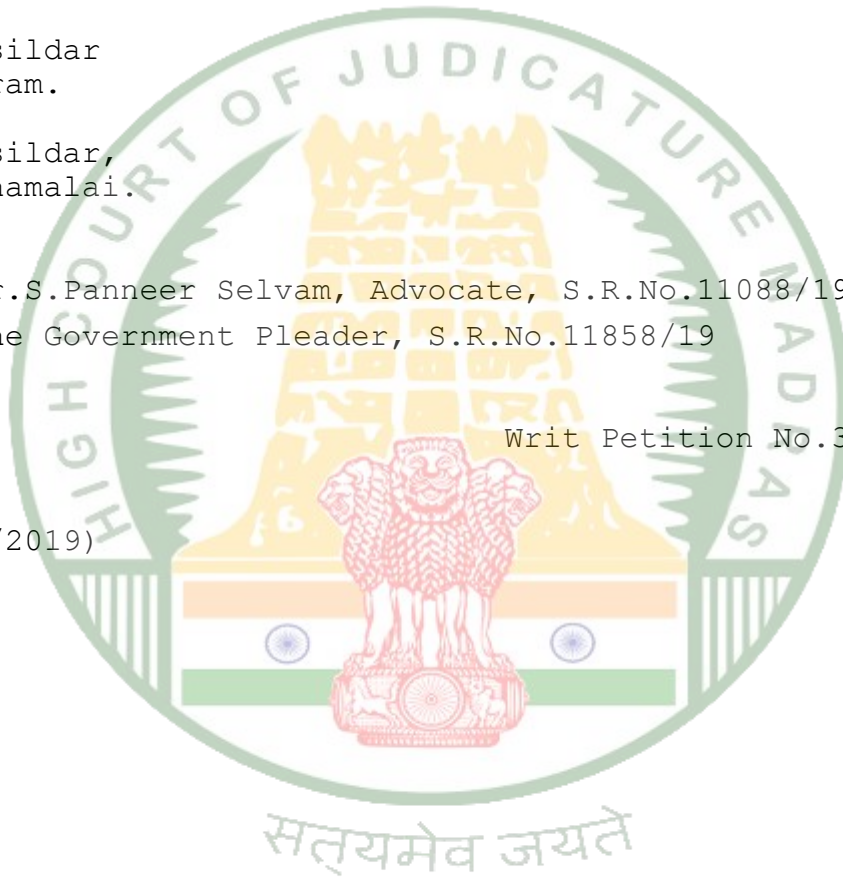
Copy to :-

- 1.The Tahsildar
Villupuram.
- 2.The Tahsildar,
Tiruvannamalai.

+1cc to Mr.S.Panneer Selvam, Advocate, S.R.No.11088/19
+1cc to The Government Pleader, S.R.No.11858/19

Writ Petition No.3552 of 2019

KAK (21/02/2019)



WEB COPY