

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2019

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
And
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.13647, 13653, 13655, 13656, 13659,
13660 and 13662 of 2019

Thamizhselvan ...Petitioner in W.P.No.13647 of 2019
M.Sarath Kumar ...Petitioner in W.P.No.13653 of 2019
Muthu @Muthuselvan ...Petitioner in W.P.No.13655 of 2019
Narayanasamy ...Petitioner in W.P.No.13656 of 2019
Pavadai ...Petitioner in W.P.No.13659 of 2019
Kolanchinathan ...Petitioner in W.P.No.13660 of 2019
R.Santhosh ...Petitioner in W.P.No.13662 of 2019

Vs.

1.The Sub Collector,
Sub Collector Office,
Virudhachalam,
Cuddalore District.

2.The Inspector of Police,
Virudhachalam Police Station,
Virudhachalam.

... Respondents

Prayer in all Writ Petitions:-

Writ petitions filed under Article 226 of the Constitution of India seeking Writ of Mandamus directing the respondents to release the bullock cart which was seized by the second respondent in Cr.No.147/2019 dated 02.04.2019 on the file of the second respondent and thereby consider the representation dated 15.04.2019.

For Petitioners : Mr.K.Venkatesan in all WPs

For Respondents : Mr.R.Govindasamy
Special Government Pleader
in all WPs

C O M M O N O R D E R

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

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

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 one of the vehicle owners with regard to 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 C.M.P.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. This Court has also clarified the said position in its orders dated 27.12.2018 and 29.04.2019 made in W.P.No.34656 of 2018.

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 directs the learned Jurisdictional Magistrate concerned to consider the request for release of the vehicle in question and pass appropriate orders in accordance with law at the earliest point of time, after hearing the parties. It is open to the writ petitioner to approach the Jurisdictional Court. The Jurisdictional Court is expected to decide the matter, as expeditiously as possible. We make it clear that the above condition/concession shall be effective only till the constitution of the Special Courts.

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

pri/vji

सत्यमेव जयते Sd/-

Assistant Registrar(V.O.)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Collector,
Sub Collector Office,
Virudhachalam,
Cuddalore District.

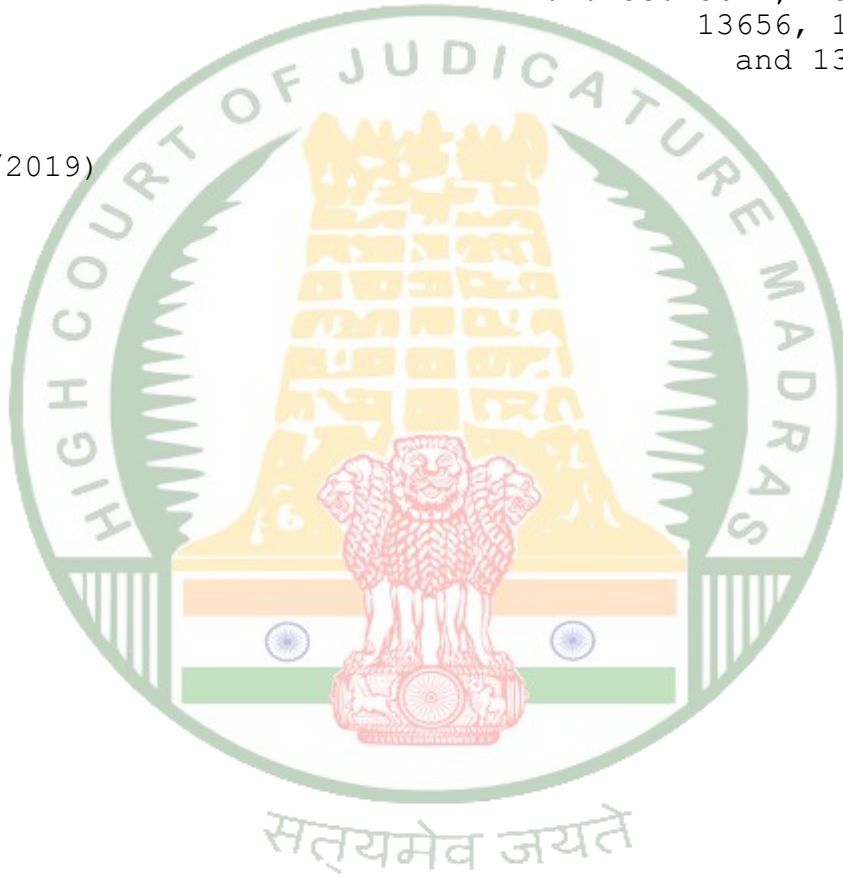
2.The Inspector of Police,
Virudhachalam Police Station,
Virudhachalam.

+7cc to Mr.G.Kadhiresan, Advocate, SR.No.43375

+1cc to the Govt.Pleader, High Court,Vide Sr.No.43425

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13656, 13659, 13660
and 13662 of 2019

Kak(10/05/2019)



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