

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19229 of 2019

Mr.C.Thamotharan,
S/o. Chinnapaiyan.

... Petitioner

..VS..

1. The Tahsildar,
Arni Taluk Office,
Arni - 632 301.
2. The Inspector of Police,
Arni Taluk Police Station,
Arni - 632 301.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to release the tractor tipper SWARAJ 744 EE owned by the petitioner bearing Registration No.TN-23-BU-8286 seized by the 2nd respondent wrongly mentioned in the FIR Registration No as TN_23-BU-3286 within a time frame.

For Petitioner :

Ms. M.Rebecca

For respondents :

Mr.V.Shanmuga Sundar
Special Government Pleader

ORDER

[Order of the Court was made by R.SUBBIAH, J]

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus, directing the respondents to release the tractor tipper SWARAJ 744 EE owned by the petitioner bearing Registration No.TN-23-BU-8286 seized by the 2nd respondent wrongly mentioned in the FIR Registration No as TN_23-BU-3286 within a time frame.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. According to the petitioner, the respondents have seized the vehicle in question on 01.10.2018 on the ground of illegal carrying of river sand and till date, no order for release of the said vehicle had been passed by the respondents. Hence, he has come forward with the present Writ Petition.

4. On the other hand, it is submitted by the learned Special Government Pleader appearing for the respondents that the vehicle in question was used for illegal transportation of mines and minerals like river sand and there was no valid permit and hence, the vehicle was seized. He further submitted that the petitioner has no previous case.

5. In any event, as the vehicle is under the custody of the fourth

respondents from the date of seizure and considering the fact that if the same is allowed to be kept idle by exposing the same to rain and shine, it would certainly diminish their value, this Court is of the view that the vehicle in question may be released by imposing conditions on the petitioner.

6. Accordingly, the respondents are directed to release the vehicle in question to the petitioner within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

- (i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the jurisdictional Tahsildar concerned as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the jurisdictional Tahsildar concerned, to the credit of the District Mines and Minerals Foundation Trust as non-refundable deposit.
- (ii) The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the concerned jurisdictional Judicial Magistrate.
- (iii) The petitioner shall give an undertaking before the respondents/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondents and also the trial Court, failing which the respondents/trial

R.SUBBIAH, J
and
C.SARAVANAN, J
 mp/gm

Court is/are at liberty to confiscate the vehicle.

(iv)The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned.

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

With the above observations and directions, this Writ Petition is disposed of. No costs.

[R.P.S., J] [C.S.N., J]
 05.07.2019

Note to office: Issue order within two weeks

Index : Yes/No
 Internet : Yes
 mp/gm

To

1. The Tahsildar,
 Arni Taluk Office,
 Arni - 632 301.
2. The Inspector of Police,
 Arni Taluk Police Station,
 Arni - 632 301.

W.P.No.19229 of 2019