

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

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

Writ Petition No.20086 of 2019

G.Balamurugan
S/o.Govindan

...Petitioner

Vs

1.The Sub-Collector/Revenue Divisional Officer,
Office of Sub Collector,
Virudhachalam,
Cuddalore District.

2.The Tahsildar,
Veppur Taluk,
Cuddalore District.

3.The Inspector of Police,
Veppur Police Station,
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing first respondent herein to release the petitioner's vehicle viz., Lorry bearing Registration No.TN-28-AK-2589 to the petitioner within a time frame to be stipulated by this Court.

For Petitioner : Mr.M.Santhanaraman
For Respondents: Mr.V.Shanumuga Sundar
Special Government Pleader

O R D E R

[Order was made by R.SUBBIAH, J]

Petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus directing first respondent herein to release the petitioner's vehicle viz., Lorry bearing Registration No.TN-28-AK-2589 to the petitioner within a time frame to be stipulated by this Court.

2. Heard learned counsel for petitioner and learned Special

Government Pleader for respondents.

3. Learned counsel for petitioner submits that on 09.05.2019, a team of police officials of Veppur Police Station stopped petitioner's vehicle and seized the same stating that the lorry was being used for illegal transportation of 4½ units of sand. Though the driver of the vehicle showed bills for purchase of M-Sand, police officials seized the vehicle for illegal transportation of river sand. Third respondent police took possession of the vehicle and parked the same in the open yard. Petitioner submitted a representation to first respondent seeking release of the vehicle, but, till date, no action has been taken on the said representation. Hence, the present Writ Petition has been filed seeking the aforesaid relief.

4. Learned Special Government Pleader for respondents, relying on the counter filed by second respondent, submits that the lorry was loaded with 3 units of River Sand without any valid document or permission from authorities and hence, the lorry was seized. A case was also registered in Crime No.151 of 2019 on the file of third respondent for offences u/s. 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 r/w 379 and 430 IPC. Thereafter, the lorry along with river sand was handed over by police authorities to second respondent on 19.07.2019. Since the vehicle was involved in illegal transportation of river sand, it cannot be released until the above case attains finality. Submitting as above, learned Special Government Pleader prays for dismissal of the Writ Petition.

5. This Court has considered the rival submissions and perused the materials on record.

6. It is the case of petitioner that only M-Sand was transported in the vehicle with valid permit. However, respondents submit that river sand was illegally transported in the subject vehicle. There is a dispute with regard to the nature of mineral carried in the vehicle. This Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot conduct roving enquiry on the disputed question of fact. Whether sand has been transported with valid permit or not can be decided only by the Special Court dealing with matters relating to mines and minerals. Hence, this Court is of the view that proper remedy for the petitioner is to approach the concerned Court viz., Special Court constituted in keeping with G.O.(Ms).No.298, Home (Courts-II) Department, dated 13.06.2019.

Accordingly, the Writ Petition is dismissed by giving

liberty to the petitioner to approach the concerned Court for appropriate relief. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Sub-Collector/Revenue Divisional Officer,
Office of Sub Collector,
Virudhachalam,
Cuddalore District.
- 2.The Tahsildar,
Veppur Taluk,
Cuddalore District.
- 3.The Inspector of Police,
Veppur Police Station,
Cuddalore District.

+1 cc to Government Pleader sr72796



Writ Petition No.20086 of 2019

aa16/09/2019

WEB COPY