



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM:

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

W.P.No.20649 of 2019

S.Bakkiyaraj

.. Petitioner

Vs.

1. The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruvarur, Thiruvarur District.
2. The Superintendent of Police,
Thiruvarur, Thiruvarur District.
3. The Thasildar,
Thiruvarur,
Thiruvarur District.
4. The Inspector of Police,
Kodavasal Police Station,
Thiruvarur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first and second respondents to consider the representation of the petitioner, dated 09.07.2019 and direct the fourth respondent authority to release the petitioner's vehicle KOBELCO SK.210 - EXCAVATOR M.SERIAL YQ 12-B-0944 in connection with Crime No.292 of 2019 in the custody of the fourth respondent herein to secure the ends of justice.

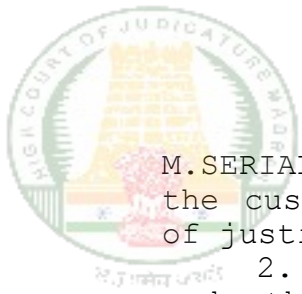
For petitioner : Mr.R.Sankarasubbu

For respondents : Mr.K.S.Suresh, Govt. Advocate

ORDER

(The 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 to direct the first and second respondents to consider the representation of the petitioner, dated 09.07.2019 and direct the fourth respondent authority to release the petitioner's vehicle KOBELCO SK.210 - EXCAVATOR



M.SERIAL YQ 12-B-0944 in connection with Crime No.292 of 2019 in the custody of the fourth respondent herein to secure the ends of justice.

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

3. According to the petitioner, the respondents have seized the vehicle in question on the ground of illegal mining 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. The learned counsel for the petitioner submitted that the petitioner has excavated the sand only from the private land owned by Jagadeesan and therefore, it is absolutely incorrect to state that the petitioner had transported the river sand illegally. Hence, he prayed for release of the said vehicle without imposing any condition.

5. On the other hand, by filing counter affidavit of the fourth respondent, it is submitted by the learned Government Advocate appearing for the respondents that the vehicle in question was used for illegal transportation of mines and minerals like sand and there was no valid permit and hence the vehicle was seized. He further submitted that the petitioner engaged and used the vehicle in question in the business of transportation of goods for rental. While so, the Village Administrative Officer, Kodavasal, Thiruvavarur District, lodged a complaint before the fourth respondent-Police stating that one Bala and Mohan Jeevan engaged the vehicle bearing Registration No.KOBELCO SK 210 KITTACHI for illegally transporting 100 units of sand from the land owned by Jagadeesan. The learned Government Advocate further submitted that even for excavating the sand from a private land, permission of the respondents is necessary under the provisions of the Mines and Minerals (Development and Regulation) Act. Thus, he opposed for release of the vehicle in question.

6. Be that as it may. In any event, as the vehicle is under the custody of the 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 its value, this Court is of the view that the vehicle in question may be released by imposing conditions on the petitioner.

7. 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 respondent(s)/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 respondent(s) and also the trial Court, failing which the respondents/trial 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 respondent(s).

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

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

Cs

To

1. The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruvavarur, Thiruvavarur District.
2. The Superintendent of Police,
Thiruvavarur, Thiruvavarur District.
3. The Thasildar,
Thiruvavarur, Thiruvavarur District.
4. The Inspector of Police,
Kodavasal Police Station,
Thiruvavarur District.

+1cc to Mr.Sankarasubu, Advocate, S.R.No. 65585

+1cc to the Government Pleader, S.R.No. 65914

W.P.No.20649 of 2019

MG(CO)

GN(05/08/2019)