

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM

THE HON'BLE MR JUSTICE M. SATHYANARYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.P.No.31252 of 2018

G. Ramachandran

... Petitioner

Vs

1. The Chief Secretary for State of Tamil Nadu,
Secretariat,
Chennai - 09
2. The District Collector,
The Collectorate Office,
Thiruvallore,
Thiruvallore District
3. The Revenue Divisional Officer,
The Revenue Divisional Office,
Thiruvallore,
Thiruvallore District
4. The Tahsildar,
Poonamallee Taluk Office,
Poonamallee,
Thiruvallore District
5. The Revenue Inspector,
Soranchery Village,
Poonamallee Taluk,
Thiruvallore District
6. The Village Administrative Officer,
Soranchery village,
Poonamallee District

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying this Court to issue a Writ of Mandamus directing the respondents No.1 to 4 to release the petitioner's JCB Machinery having Registration No.TN.20; CW 5367 without any fine

or cost which was kept under the illegal custody of the respondent by considering the petitioner's representation dated 11.10.2018.

For petitioner :Mr.G. Rajesh

For respondents : Mr.E. Manoharan
AGP

ORDER

(Order of the Court was made by M. SATHYANARAYANAN,J.,)

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims to be the owner of the vehicle JCB Machinery bearing Registration No.TN-20; CW 5367 and according to him, on 19.08.2018 at 3.00 p.m, when the petitioner was levelling his patta land with the above said machinery, it was seized by the fourth respondent on the ground that the said JCB Machinery has been used for illegal transportation of sand.

3. The learned counsel appearing for the petitioner further submits that there is an enmity between him and Premkumar, Gupendran and his group of people. They often threatened the petitioner and received money. When the petitioner refused to give money, the instigated others to extort money from the petitioner. Hence, the petitioner lodged police complaint on 09.09.2013 with Chennai Pattapiram Police Station against the above said Premkumar and Gupendran and CSR No.288 of 2013 was issued. Again he was threatened by one Sampath and Auto Mohan, therefore, he lodged a police complaint on 25.02.2015 with Chennai Pattapiram Police Station against them and CSR No.37 of 2015 was issued. The local persons and revenue authorities conspired to give troubles in many forms, therefore, the petitioner filed a civil suit in O.S.No.422 of 2015 on the file of District Munsif, Poonamallee and further submit that the petitioner is having possessory right and easement right over the Thoppu Porambokku used as a common passage of ingress and egress is situated in S.No.33 which is situated amides of the Patta land. The petitioner would submit that after seizure, the petitioner made a representation on 11.10.2018 before the respondents, praying to release the JCB Machinery, but still the respondents have not released the JCB Machinery. The learned counsel appearing for the petitioner would further submit that the petitioner is eking out his livelihood out of the income earned from operating the JCB Machinery and since the vehicle

has been seized as early as on 19.08.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather and hence, the petitioner is left with no other alternative except to approach this Court by filing this writ petition and therefore, prays for appropriate direction for release of the said vehicles.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondent, would submit that since the petitioner's JCB Machinery has been used for illegal transportation of sand, and it cannot be released.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. This Court, upon hearing the rival submissions and on going through the materials, especially the averments made in the affidavit filed in support of this writ petition, is inclined to order the release of the vehicle in question, by way of interim custody to the petitioner, subject to the following conditions:

- (i) The petitioner shall produce relevant documents before the respondent to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty five thousand Only) to the satisfaction of the third respondent;
- (iii) The petitioner shall give an undertaking that he will not use the vehicle for any other illegal/unlawful activities in future and he will not alienate/encumber the vehicle in question till the disposal of the proceedings before the authority concerned and he will produce the same as and when required by the respondents/jurisdictional police/jurisdictional Magistrate.
- (iv) The petitioner shall also execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties in a like sum to the satisfaction of the respondents.

7. On complying with the conditions imposed in this writ petition, the respondents are directed to release the JCB Machinery bearing Registration No. TN.20; CW 5367 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondents to initiate appropriate action for seizure of the vehicle.

8. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary for State of Tamil Nadu,
Secretariat,
Chennai - 09
2. The District Collector,
The Collectorate Office,
Thiruvallore,
Thiruvallore District
3. The Revenue Divisional Officer,
The Revenue Divisional Office,
Thiruvallore,
Thiruvallore District
4. The Tahsildar,
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5. The Revenue Inspector,
Soranchery Village,
Poonamallee Taluk,
Thiruvallore District
6. The Village Administrative Officer,
Soranchery village,
Poonamallee District.

+1cc to Mr.G.Rajesh, Advocate Sr.7364
+1cc to the Government pleader sr.7254

W.P.No.31252 of 2018

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srg 20/02/2019