

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.No.31914 of 2018

S.Jayaprakash .. Petitioner

Vs.

1.The Revenue Divisional Officer,
Tiruvallur, Tiruvallur District.

2.The Tahsildar,
Office of the Tahsildar,
Uthukottai,
Tiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to release the lorry bearing Registration No.TN-20 BD 7767 seized by the respondents to the petitioner.

For Petitioner : Mr.R.Vijayakumar

For Respondents : Mr.E.Manoharan,
Additional Government Pleader

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 Tipper Lorry Tata Multi Axle Goods Vehicle, bearing Reg.No.TN-20 BD 7767, Colour - H Yellow, Engine No.01B62849291, Chasis No.MAT448091A3B02968 and according to him, on 24.08.2018, the said lorry was engaged by one M/s.D.R.Enterprises for transporting Savudu for the purpose of levelling their land and while transporting the said Savudu soil, the vehicle was seized

by the respondents on the ground that the said vehicle has been used for illegal transportation of Savudu sand.

3. The learned counsel appearing for the petitioner would submit that while the vehicle was engaged for the purpose of transportation, he was unaware that Savudu soil has been quarried illegally and only after seizure of the vehicle, he became aware of the said fact. 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 lorry and since the vehicle has been seized as early as on 24.08.2018 and parked in open space, there is likelihood of getting rusted or damaged on account of vagaries of weather and therefore, the petitioner is left with no other alternative except to approach this Court by filing this writ petition praying for appropriate direction for release of the said lorry.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that since the petitioner's vehicle has been used for illegal transportation of Savudu Soil, it cannot be released and prays for dismissal of this writ petition.

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 respondents to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the satisfaction of the respondents.
- (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) 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 respondent is directed to release the Tipper Lorry Tata Multi Axle Goods Vehicle, bearing Reg.No.TN-20 BD 7767, Colour - H Yellow, Engine No.01B62849291, Chasis No.MAT448091A3B02968 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(CO)

//True Copy//

Sub Assistant Registrar

Jvm

To

1.The Revenue Divisional Officer,
Tiruvallur, Tiruvallur District.

2.The Tahsildar,
Office of the Tahsildar,
Uthukottai,
Tiruvallur District.

+1 cc to Mr.R.Vijayakumar, Advocate Sr.No.7575
+1 cc to The Government Pleader, SR.No.7268

W.P.No.31914 of 2018

CP(CO)
CSL/08.02.2019