

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.32218 of 2018
and WMP.No.37462 of 2018

S.Chandrasekaran .. Petitioner

Vs.

1.The District Collector,
Namakkal District, Namakkal.

2.The Revenue Divisional Officer,
Namakkal, Namakkal District.

3.The Tahsildar,
Namakkal Taluk, Namakkal District.

4.The Assistant Director of Geology & Mines,
Pudukottai, Pudukottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the second respondent to release the Lorry bearing Registration No.TN-29 AF 6901 which was seized on 15.07.2018 by the third respondent herein and hand over the same to the petitioner.

For Petitioner : Mr.R.Thamaraiselvan

For Respondent : 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 Ashok Leyland Multi Axle Goods Lorry bearing Reg.No.TN-29 AF 6901, Engine Number PAH639526, Chassis Number MBICMDWC5ARPC2785 and according to him, the vehicle has been seized by the 3rd

respondent on 15.07.2018 on the pretext that the vehicle was found transporting M-sand without any valid permission.

3. The learned counsel appearing for the petitioner would submit that the Office of the Sub-Collector, Namakkal has issued a memo dated 12.11.2018 stating that on testing, the sand seized was found to be natural sand and issued a show cause notice as to why he should not be levied penalty as per Section 36(A-1) of the Tamil Nadu Minor Mineral Concession Rules, 1959. The learned counsel appearing for the petitioner would further submit that the petitioner has nothing to do with the alleged transportation of sand and since the vehicle has been seized as early as on 15.07.2018 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.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that on testing it was found that the sand transported in the petitioner's vehicle is natural sand and the respondent has rightly seized the vehicle and therefore, opposed the release of the vehicle.

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

6. This Court, in the light of the submissions made coupled with the facts and circumstances, 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 second respondent 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 second 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 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 second respondent/jurisdictional Magistrate.

7. On complying with the conditions imposed in this writ petition, the second respondent is directed to release the Ashok Leyland Multi Axle Goods Lorry bearing Reg.No.TN-29 AF 6901, Engine Number PAH639526, Chassis Number MBICMDWC5ARPC2785 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the second respondent to initiate appropriate action for seizure of the vehicle. It is also made clear that this Court has not ordered the release of contraband said to have been transported in the said vehicle.

8. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jvm

To

- 1.The District Collector,
Namakkal District, Namakkal.
- 2.The Revenue Divisional Officer,
Namakkal, Namakkal District.
- 3.The Tahsildar,
Namakkal Taluk, Namakkal District.
- 4.The Assistant Director of Geology & Mines,
Pudukottai, Pudukottai District.

+1cc to Mr.R.Thamarai Selvan, Advocate, S.R.No.7190

+1cc to the Government Pleader, S.R.No.7260

W.P.No.32218 of 2018

CP(CO)
GSP(21/02/2019)