

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.32458 of 2018

M.Baskar

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Tondiatpet Division,
Chennai.

2.The Assistant Director,
Geology and Mines Department,
Thiruvallur, Thiruvallur District.

3.The Assistant Director,
Geology and Mines Department,
Kancheepuram, Kancheepuram District.

4.The District Collector of Chennai,
Chennai District.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents, especially the 2nd respondent to release the lorry bearing Reg.No.TN-31 BA 3550, which was seized by the first respondent on 23.10.2018, considering the petitioner's last representation dated 23.11.2018.

For Petitioner : Mr.A.Arumugam

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 Tipper Lorry bearing Reg.No.TN-31 BA 3550, Engine Number JDH346425, Chassis Number JDE568979 and according to him, the fourth respondent herein vide proceedings dated 24.08.2018 permitted M/s.SPR Constructions Pvt. Ltd., Chennai-12 to excavate and transport

37,500 Lorry Load or 2,25,000 Sq.M. of muck from the site on which construction activity was going on and the petitioner's vehicle was also engaged in transportation and however, it was seized during the midnight hours on 23.10.2018 on the ground that it was found transporting Savudu soil without any authorization/permission and a case in Crime No.395 of 2018 was registered by the Madhavaram Milk Colony Police Station for the alleged commission of offence under Section 379 IPC. In this regard, the petitioner has also submitted representations dated 25.10.2018 and 23.11.2018 to the first respondent requesting for return of the vehicle and however he is yet to be favoured with any kind of response.

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that in the light of overwhelming materials made available, it cannot be said that Savudu sand has been illegally transported and since the vehicle has been seized as early as on 23.10.2018 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 respondent, would submit that on account of illegal transportation of Savudu sand without any valid permission/authorization, the respondent has rightly seized the vehicle and registered the case 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 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 credit of Crime No.395 of 2018 on the file of the Madhavaram Milk Colony Police Station ;
- (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 respondent

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 jurisdictional police/jurisdictional Magistrate.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Tipper Lorry bearing Reg.No.TN-31 BA 3550, Engine Number JDH346425, Chassis Number JDE568979 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. 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.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

Jvm

To

1.The Revenue Divisional Officer,
Tondiatpet Division, Chennai.

2.The Assistant Director,
Geology and Mines Department,
Thiruvallur, Thiruvallur District.

3.The Assistant Director,
Geology and Mines Department,
Kancheepuram, Kancheepuram District.

4.The District Collector of Chennai,
Chennai District.

+1 CC to Mr.A.Arumugam, Advocate sr 7052.

+1 CC to Govt. Pleader sr 7255

W.P.No.32458 of 2018

KJ(CO)

SP(08/02/2019)