

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.02.2019

Coram

The Hon'ble Mr.Justice R.Subbiah
and
The Hon'ble Mr.Justice Krishnan Ramasamy

Writ Petition No.33259 of 2018

M.Ramesh

...Petitioner

Vs.

1. The District Collector,
Ariyalur District, Ariyalur.

2. The Tahsildar,
Udayarpalayam Taluk,
Jayamkondam,
Ariyalur District.

3 The Inspector of Police,
Vickramangalam Police Station,
Udayarpalayam Taluk,
Ariyalur District.

4. The Village Administrative Officer,
Sathampadi, Udyarpalayam Taluk,
Ariyalur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, to direct the third respondent to release and return back the lorry bearing Registration No. TN-52-H-6473 to the petitioner. .

For Petitioner : Mr.R.Gopinath

For Respondents : Mr. J.Pothiraj,
Special Government Pleader

O R D E R

Krishnan Ramasamy, J.,

The petitioner has filed this Writ Petition seeking for a direction upon the third respondent to release the lorry bearing Registration No. TN-52-H-6473 to him.

2. The case of the petitioner is that, he is doing business of transportation of minerals for the past 10 years by obtaining valid permission from the Geology and Mining Department. For his business purpose, he also purchased two lorries by availing loan from a Finance Company and also engaged a driver. In fact, on 12.11.2018, the Assistant Director, Geology and Mining Department issued him a permit to transport the clay and soud sand from 12.11.2018 to 18.11.2018. Accordingly, on 12.11.2018 at 12.10 a.m., the petitioner with the assistance of his driver quarried the soud sand at Annadhanapuram Village, Nannilam Taluk, Thiruvarur District, in his lorry and supplied the same at Elakurichi Village, Ariyalur District. When the lorry, which was in possession of 10 buckets of left out sand, on its way to return, the same was intercepted by the fourth respondent/Village Administrative Officer, and despite the fact that driver of the lorry produced valid permit and other documents, the fourth respondent has given an information to the third respondent/Police, stating as if, the petitioner's vehicle was indulged in illegal transportation. Based on such wrong information, an FIR came to be registered, resulting in seizure of the lorry by the respondent/Police. Seeking release of his lorry, the petitioner also made a representation to the respondents dated 18.11.2018, but, the same evoked no response. Hence, the petitioner is constrained to file this Writ Petition seeking appropriate direction for release of the Lorry.

3. Mr.R.Gopinath, learned counsel appearing for the petitioner submits that an identical prayer was considered by the Hon'ble Division Bench of this Court, in a Writ Petition filed by one A.Somu, being W.P.No.32028 of 2018, which was disposed of, by an order dated 29.01.2019, whereby, the vehicle was ordered to be released, however, with certain conditions to the petitioner to be complied with. The learned counsel also produced a photostat copy of the said order for reference before this Court and prays that similar direction may be issued in this Writ Petition as well, which the petitioner is ready and willing to abide. The learned counsel also submitted that, if the interim custody of the vehicle is not ordered, the vehicle will be exposed to sun and rain and the value of the vehicle will be deteriorated.

4. Mr. J.Pothiraj, learned Special Government Pleader, who accepts notice on behalf of the respondents submits that the Writ Petition shall be disposed of imposing the same conditions as stipulated in the Writ Petition relied upon by the learned counsel appearing for the petitioner.

5. Thus, in the light of the submissions made coupled with the facts and circumstance, we are inclined to order for 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/Police 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 credit of Crime No.268 of 2018 on the file of the respondent/Police;

iii) The petitioner shall file an affidavit of undertaking to the effect that

a) he will not permit the use of the above referred vehicle for any other illegal/unlawful activities in future;

c) he will not alienate/encumber the vehicle in question till the disposal of the proceedings before the Authority concerned;

e) he will produce the said vehicle before the respondent/Police or Jurisdictional Magistrate as and when summoned to produce the same and

f) he will not alter the character and features of the said vehicle till the disposal of the proceedings.

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 respondent/Police or Jurisdictional Magistrate.

6. Thus, on complying with the conditions imposed in this Writ Petition, the respondent/Police is directed to release the lorry bearing Registration No. TN-52-H-6473 to the petitioner forthwith. However, it is made clear that, in case of violation of any of the conditions aforesaid, it is open to the respondent/Police to initiate appropriate action for seizure of

the vehicle.

7. The Writ Petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,
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2. The Tahsildar,
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+1cc to Mr.Pitty Prathasarathy, Advocate SR.No.11125

+1cc to Government Pleader SR.No.11857

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GMV (04/03/2019)

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