

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.33642 of 2018

S. Samraj

... Petitioner

Vs

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District

... Respondent

Writ Petition filed under Article 226 of Constitution of India praying this Court to issue a Writ of Mandamus directing the respondent to release the Lorry bearing Registration No.TN-54-C-5621 seized by the Assistant Director of Mines, Dharmapuri, Dharmapuri District on 22.12.2017 to the petitioner.

For petitioner : Mr.C. Prakasam

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 Lorry bearing Registration No.TN-54-C-5621 and the lorry was engaged for transporting sand for his agricultural land. According to him, on 22.12.2017, when the lorry was transporting the sand at the place of Erappatti village, it was intercepted by Assistant Director of Mines, Dharmapuri and the lorry was seized on the ground that the said lorry has been used for illegal transportation of sand.

3. The learned counsel appearing for the petitioner would submit that after seizure, the petitioner made a representation before the respondent, praying to release the lorry and the respondent passed orders by way of proceedings in Na.Ka.No.9534/2017/A1 dated 05.01.2018 by imposing a fine of Rs.28,540/-. According to the petitioner, he paid the fine amount, but still the respondent has not released the lorry. 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 22.12.2017 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 vehicle.

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 lorry have been used for illegal transportation of sand, it cannot be released and further submits that the petitioner has not paid the fine amount 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 respondent to establish the ownership of the vehicle in question;
- (ii) The petitioner shall deposit a sum of Rs.28,540/- (Rupees Twenty Eight thousand five hundred forty Only) to the satisfaction of the respondent, within a period of one week from the date of receipt of a copy of this order, if not already paid.
- (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 respondent.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the lorry bearing Registration No.TN-54-C-5621 to the petitioner forthwith. In case of violation of any of the conditions aforesaid, it is open to the respondent to initiate appropriate action for seizure of the vehicle.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sr

To

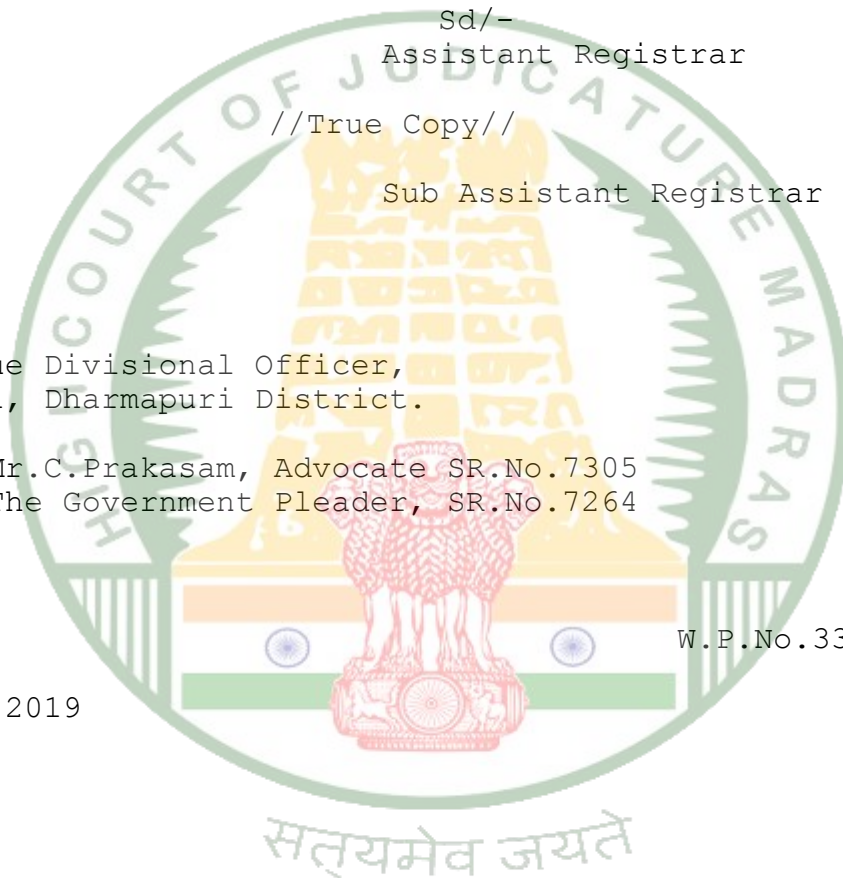
The Revenue Divisional Officer,
Dharmapuri, Dharmapuri District.

+1 cc to Mr.C.Prakasam, Advocate SR.No.7305

+1 cc to The Government Pleader, SR.No.7264

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CSL/08.02.2019



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