

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.33913 of 2018

Pon. Ramesh

... Petitioner

Vs

1. The District Collector,
Namakkal District, Namakkal
2. The Sub-Collector,
Namakkal Revenue Division,
Namakkal, Namakkal District.
3. The Assistant Director,
Geology and Mines,
Namakkal District, Namakkal.
4. The Tahsildar,
Mohanur Taluk,
Namakkal District.
5. The Inspector of Police,
P. Velur Police Station,
Paramathivelur,
Namakkal District

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying this Court to issue a Writ of Mandamus directing the respondents to release the petitioner's vehicle bearing Registration No.TN-88-W 3091, Bolero Pickup Model forthwith.

For petitioner : Mr.M.R.Jothimanian

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 vehicle bearing Registration No.TN-88 W-3091 Bolero Pickup model and the *** said vehicle** was engaged for transporting the light goods in his locality as per the permits and guidelines of the transport authorities. According to him, on 29.10.2018, when the *** said vehicle** was transporting ½ unit of sand for the construction of compound wall at his residence, it was seized by the fifth respondent on the ground that the *** said vehicle** 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 on 12.11.2018 before the second respondent, praying to release the *** said vehicle**, but still the respondent has not released the *** said vehicle**. 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 *** said vehicle** and since the vehicle has been seized as early as on 29.10.2018 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 vehicles.

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 *** said vehicle** has been used for illegal transportation of sand, it cannot be released and further submits that the petitioner has involved similar kind of offence on an earlier occasion 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.25,000/- (Rupees Twenty five thousand Only) to the satisfaction of the second respondent,* viz., **The Sub Collector, Namakkal District.**

(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) each 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 *** Bolero Pickup Model** bearing Registration No. *** TN-88-W-3091** 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

*** Corrected as per order
dated 21.02.2019 and
made in WP.33913 of 2018**

सत्यमेव जयते Sd/-

Assistant Registrar(CS VI)

//True Copy//

WEB COPY
Sub Assistant Registrar

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To

1. The District Collector,
Namakkal District, Namakkal

2. The Sub-Collector,
Namakkal Revenue Division,
Namakkal, Namakkal District.
3. The Assistant Director,
Geology and Mines,
Namakkal District, Namakkal.
4. The Tahsildar,
Mohanur Taluk, Namakkal District.
5. The Inspector of Police,
P.Velur Police Station,
Paramathivelur, Namakkal District

+1cc to Mr.M.R.Jothimanian, Advocate, S.R.No.7447
+1cc to the Government Pleader, S.R.No.7265

W.P.No.33913 of 2018

RV(Co)
CS/26/02/2019



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