

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.34116 of 2018
and WMP No.39638 of 2018

E.M. Dhanajayan

... Petitioner

Vs

1. The Revenue Divisional Officer,
Ponneri
2. The Assistant Director of Geology of Mining,
O/o District Collector,
Tiruvallur
3. The Tahsildar,
Taluk Office,
Gummidipoondi

... 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.AP 26 TB 1369 forthwith and directed to pay
adequate compensation to the petitioner for illegal custody of the
vehicle.

For petitioner : Mr.M. Muthappan

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 Heavy Vehicle Lorry bearing Registration No.AP 26 TB 1369 and the vehicle was engaged for transporting silica sands which is used as raw material for cast iron Industries from Nellore District of Andhra Pradesh with valid bill of dealer and transport permit issued by Government of Andhra Pradesh, Department of Mines and Geology. According to him, on 25.09.2018, when the said vehicle was coming near Elavoor check post , it was intercepted by Arambakkam Police Officials and the vehicle was seized on the ground that the said vehicle has been used for illegal transportation of Silica sands.

3. The learned counsel appearing for the petitioner would submit that since the vehicle was engaged for the purpose of transportation,

he was unaware that Silica sands have been transported illegally and only after seizure of the vehicle, he became aware of the said fact. 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 25.09.2018 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 vehicle.

4. *Per contra*, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondents, would submit that since the petitioner's vehicle has been used for illegal transportation of Silica sands, it cannot be released 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.10,000/- (Rupees ten Thousand Only) to the satisfaction of the respondents.
- (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 respondents.

7. On complying with the conditions imposed in this writ petition, the respondent is directed to release the Lorry bearing Registration No. AP 26 TB 1369 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.

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

(M.S.N.J.,) (P.R.M.J.,)
29-01-2019

Index : Yes
Website : Yes
Speaking order
sr

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M. SATHYANARYANAN ,J.,
and
P. RAJAMANICKAM,J.,

To

1. The Revenue Divisional Officer,
Ponneri
2. The Assistant Director of Geology of Mining,
O/o District Collector,
Tiruvallur
3. The Tahsildar,
Taluk Office,
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