

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.34807 of 2018
and WMP No.40369 of 2018

M.Munivel

... Petitioner

Vs

1. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Dharmapuri,
PIN CODE:636 701

2. The Tahsildar
Palacode,
Taluk Office,
Palacode,
Dharmapuri 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 vehicle JCB bearing Registration No.TN-29, BY-6573 pursuant to the representation made by the petitioner to the 1st respondent dated 28.11.2018..

For petitioner : Mr.C.R. Malarvannan

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 JCB bearing Registration No.TN-29, BY-6573 and the vehicle has not been used for any illegal purpose. According to him, on 24.09.2018 at 10.00 a.m, when the lorry was transporting sand from the patta land of Mariappan, it was seized by the second respondent 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 had paid penalty of Rs.25,000/- before Sub Treasury Office, Dharmapuri on 01.10.2018 for the release of the vehicle, but the respondents are not releasing the vehicle. Thereafter, the petitioner made a representation on 28.11.2018 to the first respondent, praying to release the lorry, but still the respondents have 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 24.09.2018 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 vehicles.

4. Per contra, Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of the respondent, would submit that the petitioner has voluntarily paid a sum of Rs.25,000/- for penalty and since the petitioner's lorry has been used for illegal transportation of sand, 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 Sub Treasury Officer is directed to verify the payment of Rs.25,000/- (Rupees twenty five thousand only)
- (iii) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten thousand Only) to the satisfaction of the respondents.
- (iv) 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.
- (v) 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. JCB bearing Registration No.TN-29, BY-6573 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sr

To

1. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Dharmapuri,
PIN CODE:636 701

2. The Tahsildar
Palacode,
Taluk Office,
Palacode,
Dharmapuri District

+1cc to Mr.N.Mohideen Basha, Advocate, S.R.No.7324
+1cc to the Government Pleader, S.R.No.7270

W.P.No.34807 of 2018

rrs 07/02/2019