



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2019

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.12293 of 2019

A.Nagarajan

... Petitioner

vs

1.The Revenue Divisional Officer,
Padmanabapuram, Thuckalai,
Kanyakumari District.

2.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.

3.The Assistant Director of Mines and Minerals,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus by directing the respondents herein to forthwith release the tipper lorry, bearing Reg.No.TN 74 AS 6318, seized on 14.05.2019.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.S.Dhayalan
Government Advocate

ORDER

This Writ Petition has been filed seeking a direction to the respondents herein to forthwith release the tipper lorry, bearing Reg.No.TN 74 AS 6318.

2.According to the petitioner, the vehicle in question has not been used for any illegal transportation. But the second respondent has seized the same on 14.05.2019 without assigning any reason.

3.The learned Counsel for the petitioner states that the petitioner's vehicle was not involved in any previous incident of sand theft or illegal transportation of sand. In case, the submission of the learned Counsel for the petitioner turns out to be false, the fine imposed shall be 25% in addition to the amount that has now been directed by this Court for release of vehicle.



4. The learned Government Advocate appearing for the respondents submitted that the vehicle in question was involved in illegal transportation of sand and hence it was seized.

5. This Court is not convinced with the statement of the learned Counsel for the petitioner that the vehicle belonging to the petitioner is not involved in any illegal transportation or illegal mining. Having regard to the fact that the loss that may be caused to the petitioner if the vehicle is allowed to be kept idle is irreparable, this Court is inclined to issue the following directions:

(a) The petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) in cash before the first respondent;

(b) The petitioner is directed to produce all the documents to prove the ownership of the seized vehicle before the first respondent;

(c) The petitioner has to file an affidavit of undertaking that he will cause production of the vehicle in question before the competent/concerned respondent (as the case may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(d) On compliance of the above conditions, the second respondent is directed to release the seized vehicle bearing Registration No. TN 74-AS-6318 to the petitioner (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(e) This order for the release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle is in the custody of concerned Criminal Court of appropriate jurisdiction, then, option is given to the petitioner to approach the concerned Judicial Magistrate to get release of the vehicle, by filing necessary application in the manner known to law and in accordance with law; and

(f) it is open to the respondents to initiate appropriate proceedings against the petitioner and others for the alleged violation or irregularity, which prompted the officials to confiscate the vehicle. Depending upon the final order that may be passed by the respondents, the petitioner is also at liberty to seek refund of any excess amount paid pursuant to this order."



6. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Vacation Officer

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// True Copy //

Sub Assistant Registrar (CS)

vsg/sts

To

1. The Revenue Divisional Officer,
Padmanabapuram, Thuckalai,
Kanyakumari District.
2. The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
3. The Assistant Director of Mines and Minerals,
Nagercoil,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.S.SIVAKUMAR, Advocate Sr. No. 66206

W.P (MD) No.12293 of 2019
22.05.2019

SCR (CO)

TR (24.05.2019) 3P 6C