



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2019

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P (MD) No.12340 of 2019

WEB COPY
Gurunathan

... Petitioner

VS

1.The Revenue Divisional Officer,
Revenue Divisional Officer,
Sivagangai, Sivagangai District.

2.The Inspector of Police,
Palayanur Police Station,
Palayanur, Sivagangai District.

3.The Sub Inspector of Police,
Palayanur Police Station,
Palayanur, Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to release the vehicle bullock cart belongs to the petitioner which is now in the custody of the 1st (First) respondent.

For Petitioner : Mr.R.Ganesan

For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

This Writ Petition has been filed seeking a direction to the respondents herein to release the vehicle bullock cart belongs to the petitioner which is now in the custody of the first respondent.

2.According to the petitioner, the vehicle in question has not been used for any illegal transportation. But the third respondent has seized the same 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 bullock cart.

4. The learned Special Government Pleader appearing for the respondents submitted that the bullock cart 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 bullock cart 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.5,000/- (Rupees Five Thousand only) in cash before the first respondent;

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

(c) On compliance of the above conditions, the first respondent is directed to release the seized bullock cart to the petitioner (if he is in custody and possession), within three days from the date of receipt of a copy of this order;

(d) This order for the release of the vehicle can be pressed into service by the petitioner only if the bullock cart is not in the custody of the criminal Court. If the bullock cart 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 bullock cart, by filing necessary application in the manner known to law and in accordance with law; and

(e) 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 bullock cart. Depending on 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."



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

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Sd/-

Assistant Registrar (vo)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Revenue Divisional Officer,
Revenue Divisional Officer,
Sivagangai, Sivagangai District.

2. The Inspector of Police,
Palayanur Police Station,
Palayanur, Sivagangai District.

3. The Sub Inspector of Police,
Palayanur Police Station,
Palayanur, Sivagangai District.

+1 CC to M/s.SPL GP (SR-66253[F] dated 24/05/2019)

+1 CC to M/s.R.GANESAN, Advocate (SR-66204[F] dated 22/05/2019)

ls/sts

W.P (MD) No.12340 of 2019
22.05.2019

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