



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.07.2019**

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.14953 of 2019

Muthuraj

...Petitioner

-Vs-

1. The Assistant Director,
Geology and Mines,
Ramnad District.
2. The Sub-Collector,
Paramakudi,
Ramnad District.
3. The Inspector of Police,
Elanjambur Police Station,
Ramnad District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents and their subordinates to release the JCB bearing Registration No.TN-67-AL-3710 seized on 23.06.2019 to the petitioner.

For Petitioner : Mr.D.Venkatesh
For Respondents : Mr.A.Thiyagarajan
Government Advocate

ORDER

The prayer in this writ petition is for a Writ of Mandamus, to direct the respondents to release the JCB bearing Registration No.TN-67-AL-3710 seized on 23.06.2019.

2.Heard Mr.D.Venkatesh, learned counsel for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate for the first respondents.

3.In a similar circumstances, in W.P(MD).No.14701 of 2019 vide order dated 02.07.2019, a learned Judge of this Court has passed the following order:-

"2. A Division Bench of this Court has, on 29.10.2018



issued a series of detailed directions to the concerned authorities targeted at containing illegal sand mining as well as measures to address and prevent such acts. The same are extracted hereunder:-

WEB COPY

"(i) The District Level Task Forces and Taluk Level Task Forces, constituted pursuant to the order passed in WP(MD)No.9806 of 2018 should follow the G.O.(Ms)No.135 Industries (MMA.1) Department, dated 13.11.2009 in letter and spirit.

(ii) As stated in the above said Government Order, periodical meetings will have to be held which is inclusive of action taken/to be taken for the illicit mining.

(iii) Steps will have to be taken for dereliction of the duty by the concerned officials.

(iv) Taluk Level Task Forces shall also comply with the directions issued in the Government Order by making frequent surprise checks and submit their report to the District Level Task Forces.

(v) The Taluk Level Task Forces shall meet every fortnight as mandated in the Government Order.

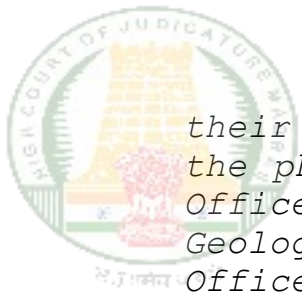
(vi) The responsibility fixed in the Government Order will have to be strictly construed and action will have to be taken against the erring Village Administrative Officer, Tahsildar, Officer in-charge of Department of Geology and Mining at District Level.

(vii) Action taken report will have to be sent by the District Collector concerned for the purpose of taking necessary action. The District Collector concerned shall take appropriate departmental action by himself as per the Rules provided so.

(viii) Separate records will have to be maintained by the Village Administrative Officer, Tahsildar and Officer in-charge of the Department of Geology and Mining with respect to the cases involving illicit mining.

(ix) As and when illicit mining is reported, the same will be recorded in the records.

(x) The respective District Collectors will have to make making vide publicity of phone particulars assigned to the District Level Task Forces and the Taluk Level Task Forces, so that, the general public can give



their complaints. There should be affixture or display of the phone particulars in the Collectorate, Taluk office, Office of Deputy Director and Assistant Director of Geology and Mining and that of the Village Administrative Officer.

WEB COPY

(xi) Complainant will have to be intimated on the action taken within a period of one week from the date of receipt of the complaint. A complaint shall also be received even when made through phone calls.

(xii) Complaints by an authorised person under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 are to be made immediately and not later than one week from the date of seizure.

(xiii) Whenever, a final report is filed for the offence under Section 379 IPC by the jurisdictional police before the jurisdictional Magistrate, the same shall also be committed to the Special Court. This is for the reason that it would be appropriate to deal with both the police case and the private complaint by the same Court and in order to avoid any possible conflict.

(xiv) The revenue officials at the time of seizure can issue a memo to the person in-charge of the vehicle, mineral among other things, indicating the seizure made, along with the date and time.

(xv) In so far as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court by the revenue authorities at the time of filing their respective complaints.

(xvi) Any application for release of vehicle etc., can only be filed before the Special Court alone.

(xvii) Any violation of the above would constitute a contempt of the order passed by this Court, for which, appropriate application can either be filed before the First Bench of this Court or any other Bench as per the direction of the Hon'ble Chief Justice."

3. Directions No: (xiii) & (xvi) above provide for action to be taken before / by the Special Court, that is, as confined by the same Division Bench on 11.01.2019 in a batch of writ petitions (W.P.(MD) No.22023 of 2018 (batch)), yet to be constituted as on that date. Thus, till such time the Special Courts are constituted, the seized vehicles were being sought before this Court in terms of Article 226 of the Constitution of India.



4. Now, the State has issued a notification in G.O. (Ms) No.298, Home (Courts-II) Department, dated 13.06.2019, extracted hereunder:

"ABSTRACT"

Courts - Criminal - Designating the Principal Judge, City Civil Courts, Chennai and the Principal District Judges / District Judges in the State of Tamil Nadu to deal with the offences in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 - Notification - Issued

Home (Courts-II) Department

G.O. (Ms) No.298

Dated 13.06.2019

விகாரி வருடம்
வைகாசி திங்கள் 30-ஆம் நாள்
திருவள்ளூர் ஆண்டு 2050

Read :

1. G.O. (Ms) No.355, Home (Courts-II) Department, dated 11.04.2017.
2. G.O. (Ms) No.1564, Home (Courts-II) Department, dated 14.09.2018.
3. Order of the Hon'ble Division Bench of the Madurai Bench of Madras High Court, dated 29.10.2018 and 11.1.2019 passed in W.P.(MD) No.19936 of 2017 and others.
4. From the Registrar General, High Court, Madras Roc.No.86124/A/2008/G4, dated 14.02.2019 and 26.03.2019.

ORDER:

In the Government Order first read above, orders were issued for constitution of a Special Court in the cadre of District Judge at Madurai to deal with the complaints and cases filed for unauthorized stock of granites in Patta lands and to deal with trial of offences for contravention of the provisions of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, and notified in Government Order second read above.

2. Consequently, the Registrar General High Court, Madras in his letter fourth read above has stated that as there is some difficulty in finding accommodation for housing the Special Court at Madurai for trial of cases filed under the Mines and Minerals (Development and Regulation) Act, 1957 (as amended by Act 10 of 2015) such constitution of the said Court, and based on the



direction of the Hon'ble Division Bench of the Madurai Bench of Madras High Court in its order third read above, he has requested the Government, among others, to issue necessary notification for designating the Court of Principal Judge, City Civil Court, Chennai and the Principal District Courts/District Courts in each Judicial District, in the State of Tamil Nadu as Special Courts to try the cases filed under the Mines and Minerals (Development and Regulation) Act, 1957 (as amended by Act 10 of 2015) and to cause the same published in the Tamil Nadu Government Gazette.

3. The Government after careful examination decided to accept the proposal of the Registrar General, High Court, Madras. Accordingly, the following Notification will be published in the Tamil Nadu Government Gazette:-

NOTIFICATION

In exercise of the powers conferred by section 30B of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) and in supersession of Home Department Notification No.II(2)/HO/879/2018 published at page-926 of part-II Section 2 of the Tamil Nadu Government Gazette dated the 10th October, 2018 the Governor of Tamil Nadu, with the concurrence of the High Court, Madras hereby designates the Court of Principal Judge, City Civil Court, Chennai and the Principal District Courts/District Courts in each Judicial District in the State of Tamil Nadu as the Special Courts, specifying the entire territorial limits of the Judicial District concerned as the local limits of the area to which the jurisdiction of the respective Court shall extend and also appoints the Principal Judge, City Civil Court, Chennai and the Principal District Judges/District Judges of the respective Judicial District as the Judge of the respective Special Court to try the offences under the said Act.

(BY ORDER OF THE GOVERNOR)

..."

5. It has been ascertained that pursuant to the aforesaid G.O., the Special Courts have commenced receiving and dealing with the applications for release. This Court will thus refrain from entertaining any application for release of vehicle seized, or in respect of which an FIR has been lodged post 13.06.2019, from 28.06.2019. The concerned District Court shall dispose of the application seeking release of vehicle, within a period of seven (7) days from the date of numbering of the application.



6. This Writ Petition is consequently dismissed, granting liberty to the petitioner to move the Special Court for the release of the vehicle in question and connected reliefs. No costs."

WEB COPY

4. Since in this case also, the First Information Report is dated 23.06.2019, ie., well after the constitution of the Special Court, this dispute cannot be entertained in this writ petition. Therefore, the Writ Petition is dismissed with a liberty to the petitioner to approach the competent Special Court by making an application therein for release of the vehicle in question and once such application is made, the same shall be decided on merits by the competent Special Court, within a period of one week from the date of such application. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Assistant Director,
Geology and Mines,
Ramnad District.
2. The Sub-Collector,
Paramakudi,
Ramnad District.
3. The Inspector of Police,
Elanjambur Police Station,
Ramnad District.

+1 CC to M/r.D.VENKATESH, Advocate (SR-73371[F] dated 04/07/2019)

+1 CC to Special Government Pleader (SR-73698[F] dated 05/07/2019)

Order made in
W.P. (MD) No.14953 of 2019
04.07.2019