



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.5156 of 2019

Subbiah

... Petitioner

Vs

1.The Assistant Director of Geology and Mining,
Tirunelveli, Tirunelveli District.

2.The Revenue Divisional Officer,
Tenkasi, Tirunelveli District.

3.The Inspector of Police,
Kuruvikulam Police Station,
Tirunelveli District.
Crime No.31 of 2019

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the second and third respondents to release the petitioner's tipper lorries bearing registration No.TN (*) 74 V 4813 and TN 72 AM 5223 which was seized by the third respondent on 31.01.2019.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.M.Karuppasamy
Government Advocate

ORDER

Heard the learned counsel on either side. By consent of both parties this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner's vehicles were seized in connection with illegal transportation of sand. The enquiry in this regard is still pending. The learned counsel for the petitioner affirms before this Court that the petitioner's vehicles were not involved in any previous incident of sand theft or illegal transportation of sand.

3.The submission of the learned counsel for the petitioner is placed on record. If this submission turns out to be false, the order now passed by this Court would stand automatically recalled and the petitioner will be visited with serious consequences. I am of the view that no purpose will be served by keeping the vehicles in question in the custody of the respondents. If the vehicle is kept in open space and exposed to sun light and rain, it would lose its value. Therefore, the respondents are directed to release the said vehicle subject to the following conditions.



- a) The petitioner shall deposit a sum of Rs.1,00,000/- (covering both the vehicles)/- to the concerned District Mineral Foundation Trust. He shall execute an affidavit of undertaking that he shall not involve in any offence in future that may lead to the seizure of the vehicle in question. The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicles.
- c) This order for release of the vehicles can be pressed into service by the petitioner only if the vehicles are not in the custody of the criminal Court. If the vehicles are 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 vehicles, by filing necessary application in the manner known to law.
- d) As and when the respondents call for the vehicles for enquiry, the petitioner has to produce the vehicles in question and he shall cooperate with the enquiry to be conducted by the respondents.

4. Upon completion of these formalities, the respondents shall release the vehicles forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicles in future.

5. The Writ Petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sd/-
Assistant Registrar (CS I)

/True Copy/

**(*) Prayer amended vide court order
dated 27.03.2019 in WP(MD)No.5674 of 2019**

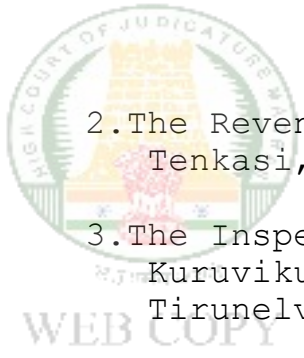
Sub Assistant Registrar (CS III)

rmk

To

(*) To be substituted to the order already despatched on 20.03.2019

1. The Assistant Director of Geology and Mining,
Tirunelveli, Tirunelveli District.



2.The Revenue Divisional Officer,
Tenkasi, Tirunelveli District.

3.The Inspector of Police,
Kuruvikulam Police Station,
Tirunelveli District.

1 CC to M/s.R.J.KARTHICK, Advocate (SR-51808[F] dated 05/03/2019)

+1 CC to M/s.SPL GP (SR-51992[F] dated 06/03/2019)

+1CC to Mr.R.J.KARTHICK , Advocate SR.No. 56860.

W.P. (MD)No.5156 of 2019

DS/ /SAR- (20.03.2019) 3P 6C

DS SAR3 27.03.2019 3P 7C