



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 18.10.2019  
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]No.1046 of 2019  
and  
C.M.P.[MD]No.9556 of 2019

S.Rani : Appellant/Petitioner  
Vs.

1. The Assistant Director of Mines and Minerals,  
Karur District,  
Karur.
2. The District Collector,  
Karur District,  
Karur.
3. The Revenue Divisional Officer cum  
Sub Collector,  
Karur,  
Karur District.
4. The Tahsildar,  
Pugaloor Taluk Office,  
Karur District.

: Respondents/Respondents

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the impugned order dated 04.09.2019 made in W.P.[MD]No.19175 of 2019 on the file of this Court and direct the respondents herein to release the vehicle of the petitioner viz., Tipper Lorry bearing Registration No.TN-32T-3233, allow the writ appeal.

For Appellant : Mr.J.Ashok  
For Respondents : Mr.A.K.Baskara Pandian  
Special Government Pleader

**JUDGMENT**

**[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]**

By consent, the Writ Appeal is taken up for disposal at the services court on its own itself.  
<https://hcservicescourts.gov.in/hcservices/>



2. Heard Mr. Ashok, learned Counsel appearing for the petitioner and Mr. A.K. Baskara Pandian, learned Special Government Pleader, accepting notice on behalf of the respondents.

3. The appellant filed a writ petition for a direction to the respondents to release her Tipper Lorry bearing Registration No. TN-32-T-3233, which was under the custody of the respondents. The learned Single Bench taking note of the decisions of the Hon'ble Division Bench dated 29.10.2018, which issued directions to the aggrieved persons to approach the Special Court, dismissed the writ petition and granted liberty to the appellant to move the Special Court.

4. It is submitted by the learned Counsel for the appellant that even prior to the filing of the writ petition, the appellant had approached the Special Court at Karur and filed an application on 24.09.2019. However, the said application was returned by the concerned Court on 27.09.2019, stating that the petition is not maintainable. Admittedly, since no FIR has been registered, the Special Court was right in refusing to entertain the petition. Identical issue was considered by us in W.A.[MD]No.948 of 2019 dated 19.09.2019. In the said case also, the appellant's Tipper Lorry was detained on the ground that it was illicitly transporting soil. In the said case also, no complaint was registered. Considering the peculiar facts, we had disposed of the writ petition by order dated 19.09.2019, which reads as follows:

"7. The learned counsel for the appellant has drawn our attention to an order passed by the Principal Sessions Judge, Madurai exercising the jurisdiction as Special Court under the said Act, in respect of the vehicle, which was seized by the Inspector of Police, K. Puthur Police Station. Owner of the vehicle one A. Sithkhan has filed Cr.M.P.No.3088 of 2019 under Section 451 Cr.P.C., to return the vehicle. Even in the cause title in the column provided for Crime number, it is stated as 'not known'. The Special Court, after taking into consideration the facts, found that to exercise the power under Section 451 Cr.P.C., there must be an inquiry or trial and in the case of A. Sithkhan, no case is registered by the Police and therefore, the Court was not inclined to grant interim custody of the vehicle under Section 451 Cr.P.C., as no case is registered or pending in respect of the offence and accordingly, dismissed the petition. In all probabilities, if the appellant approaches the Special Court, he will also be placed with the similar order and the application will be dismissed.



8. The learned Additional Government Pleader has produced the copy of the communication sent by the Assistant Director, Geology and Mines Department, Madurai to the Revenue Tahsildar, Melur, dated 19.09.2018. On a perusal of the same, we find that there is no reference to any criminal case nor any memo issued to the petitioner, the owner of the vehicle or the owner of the mineral as required under Clause xiv of the directions issued by the Hon'ble Division Bench of this Court, dated 29.10.2018. Therefore, the facts of the present case are peculiar.

9. It is not known as to why the authorities have not adhered to the directions of the Hon'ble Division Bench of this Court, dated 29.10.2018. If there has been deliberate failure on the part the authorities, this will be well within the jurisdiction to initiate suo motu act of contempt on the deliberate erring officials. We can also reasonably infer that there may be collusion between the officials and the wrong doers. However, we do not wish to express anything in this regard in the present case. Considering these facts, we treat the present appeal as peculiar case and therefore, we inclined to exercise jurisdiction to release the vehicle and grant interim custody of the vehicle to the appellant subject to the following conditions:-

(1) the second respondent Tahsildar is directed to unload the sand, which has been loaded into the lorry and with the assistance of the third respondent dispose of the same in accordance with the procedure within a period of three days from the date of receipt of a copy of this order;

(2) after the sand is removed from the lorry, the second respondent is directed to produce the lorry before the learned Judicial Magistrate Court, Melur, within a period of three days from the date on which the soil is removed;

(3) on the vehicle is being produced, the petitioner is directed to file an appropriate application before the learned Judicial Magistrate, which shall be taken on file;

(4) the petitioner shall deposit a sum of Rs.50,000/-, to the credit of the said case, within the time framed by the learned Judicial Magistrate;

(5) the original Registration Certificate of the lorry shall be kept in the custody of the learned Judicial Magistrate, Melur.



(6) upon remittance of the amount as specified namely, Rs.50,000/-, the lorry shall be released and interim custody be granted in favour of the appellant;

(7) liberty is granted to the respondent to register appropriate civil or criminal proceedings against the appellant;

10. With the above directions, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

5.The respondents have not been able to point out any distinguishing features in the case on hand than that of the case which was disposed of by us by the aforementioned judgment. Therefore, we are inclined to follow the directions issued in the aforementioned order. Thus, by treating the appeal as a peculiar case, we exercise jurisdiction to release the vehicle to grant interim custody of the vehicle to the appellant, subject to the following conditions:

(1) the fourth respondent Tahsildar is directed to unload the sand, which has been loaded into the Tipper Lorry and with the assistance of the third respondent dispose of the same in accordance with the procedure within a period of three days from the date of receipt of a copy of this order;

(2) after the sand is removed from the Tipper Lorry, the fourth respondent is directed to produce the Tipper Lorry before the learned Judicial Magistrate Court, Karur, within a period of three days from the date on which the soil is removed;

(3) on the vehicle being produced, the petitioner is directed to file an appropriate application before the learned Judicial Magistrate, which shall be taken on file;

(4) the petitioner shall deposit a sum of Rs.50,000/-, to the credit of the said case, within the time framed by the learned Judicial Magistrate;

(5) the original Registration Certificate of the lorry shall be kept in the custody of the learned Judicial Magistrate, Karur.

(6) upon remittance of the amount as specified namely, Rs.50,000/-, the Tipper Lorry shall be released and interim custody be granted in favour of the appellant;

(7) liberty is granted to the respondent to register appropriate civil or criminal proceedings against the appellant;



10. With the above directions, this writ appeal is disposed of.  
No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CO)

Sub Assistant Registrar (CS )

To

1. The Assistant Director of Mines and Minerals,  
Karur District,  
Karur.

2. The District Collector,  
Karur District,  
Karur.

3. The Revenue Divisional Officer cum  
Sub Collector,  
Karur,  
Karur District.

4. The Tahsildar,  
Pugaloor Taluk Office,  
Karur District.

+1 CC to Mr. J. ASHOK, Advocate ( SR-92799[F] dated 18/10/2019 )

+1 CC to SPL GP ( SR-93274[F] dated 21/10/2019 )

Judgment made in

**W.A. [MD]No.1046 of 2019**

Dated: 18.10.2019

**mr**

MK (08.11.2019) 5P 7C