



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **13.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
W.P. (MD) No.5336 of 2020

WEB COPY

K.Mahesh

... Petitioner

/vs./

1.The Assistant Director,
Geology and Mining,
Kanyakumari, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Office of Tahsildar,
Thiruvattar Taluk,
Kanyakumari District.

4.The Inspector of Police
Kulasekaram Police Station,
Kanyakumari District.

... Respondents

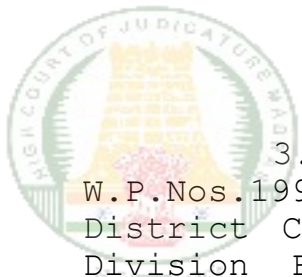
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the third and fourth respondents to release the petitioner's vehicle Tata 407 Tipper Tempo bearing Registration No.TN 75 K 8862.

For Petitioner : Mr.P.T.Ramesh Raja
For Respondents : Mr.V.Anand
Government Advocate

ORDER

The petitioner is facing a singular problem. His Tata 407 Tipper Tempo bearing Registration No.TN 75 K 8862, was seized by the third respondent, the Tahsildar, Thiruvattar Taluk, Kanyakumari District, for having transported waste materials of channel.

2.It is a specific contention of the learned counsel for the petitioner that no First Information Report has been registered and there is no record for such seizure. It is stated that the third respondent had handed over the vehicle for safe custody to the Inspector of Police, Kulasekaram Police Station, Kanyakumari District. In these circumstances, the present writ petition has been filed seeking to release the said vehicle.



3. My attention has been drawn to the orders passed in W.P.Nos.19936 of 2017, 7595 and 21485 of 2018 (Muthu Vs. The District Collector, Pudukottai District, Pudukkottai), wherein, a Division Bench had imposed various conditions for release of vehicle, which has been seized while transporting the mines and minerals. It had been stated that if the seizure was subsequent to G.O.(Ms)No.135 Industries (MMA.1) Department, dated 13.11.2019, an application has to be filed only before the Jurisdictional Magistrate Court for release of the vehicle by the petitioner.

4. In this case, it appears that no First Information Report has been filed and the vehicle has not been produced before the Jurisdictional Magistrate Court by the Tahsildar, Thiruvattar Taluk, Kanyakumari District.

5. The learned counsel for the petitioner therefore relied on the judgment of this Court in W.A.(MD) No.948 of 2019 (R.Ganesan Vs. The Revenue Divisional Officer, Melur, Madurai District), wherein, a Division Bench of this Court had exercised jurisdiction and released the vehicle subject to various conditions particularly, the Tahsildar should produce the vehicle before the Jurisdictional Court and the petitioner can file an appropriate application before the said Jurisdictional Magistrate Court. I shall follow the same conditions.

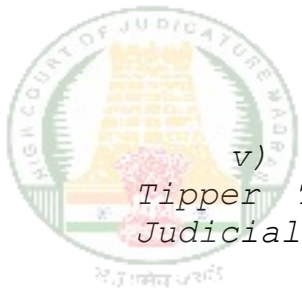
6. In view of the above, the Writ Petition is allowed with the following conditions:

i) the 3rd respondent/the Tahsildar, Thiruvattar Taluk, Kanyakumari District, is directed to unload the waste materials, which has been loaded into the Tipper Tempo and with the assistance of the first 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;

ii) after the waste material is removed from the Tata 407 Tipper Tempo vehicle, the 3rd respondent is directed to produce the Tata 407 Tipper Tempo before the Judicial Magistrate Court concerned, within a period of three days from the date on which the stone is removed;

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

iv) the petitioner shall deposit a sum of Rs.35,000/- to the credit of the said case, within the time frame framed by the learned Judicial Magistrate concerned;



v) the Original Registration Certificate of the Tata 407 Tipper Tempo shall be kept in the custody of the learned Judicial Magistrate concerned;

vi) upon remittance of the amount as specified namely, Rs.35,000/-, the Tata 407 Tipper Tempo shall be released and interim custody be granted in favour of the petitioner;

vii) liberty is granted to the respondents to register appropriate civil or criminal proceedings against the petitioner;

7.No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

tsg

To

1.The Assistant Director,
Geology and Mining,
Kanyakumari, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Office of Tahsildar,
Thiruvattar Taluk,
Kanyakumari District.

4.The Inspector of Police
Kulasekaram Police Station,
Kanyakumari District.

+1 CC to Mr.P.T.RAMESHRAJA, Advocate (SR-11670[F] dated 13/03/2020)

+1 CC to SPL.GP (SR-12009[F] dated 17/03/2020)

W.P. (MD) No.5336 of 2020

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