



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANW.P. (MD) No. 7362 of 2020

Shanmugaraja

... Petitioner

Vs.

1. The District Collector,
Collector Office, Sivagangai - 630 562.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai - 630 562.

3. The Assistant Director,
Geology and Mining Department,
Sivagangai - 630 562.

4. The Inspector of Police,
Manamadurai police station,
Manamadurai - 630 606.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to release the petitioner's lorry bearing Registration No. TN 60-R-1306 from the custody of the fourth respondent on the basis of the petitioner's representation dated 16.06.2020 within a stipulated time that may be fixed by this Hon'ble Court.

For Petitioner	: Mr. R. Senthil Kumar
For Respondents	: Mr. M. Rajarajan, Government Advocate.

O R D E R

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 is the owner of the petition mentioned vehicle. It was seized in connection with the illegal transportation of sand.

3. The learned Government Advocate states that in this regard, a criminal case was also registered against the petitioner. But till date, the vehicle has not been produced before the jurisdictional Court. The case is still under investigation.

4. I am of the view that so long as the vehicle has not been



produced before the Jurisdictional Court, the Writ Court will very much have the jurisdiction to order release of the vehicle.

5. The learned counsel for the petitioner affirms before this Court that the petitioner's vehicle was not involved in any previous incident of sand theft or illegal transportation of sand.

6. 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 recalled and the petitioner will be visited with serious consequences. I am of the view that keeping the petition mentioned vehicle in the custody of the respondents is not going to serve any purpose. The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

7. Therefore, the respondents are directed to release the said vehicle subject to the following conditions:-

- a) The petitioner shall take a Demand Draft for a sum of Rs.50,000/- (Rupees Fifty Thousand only) in the name of the District Collector, Sivagangai District. The District Administration will also spend the same immediately on some welfare measure and send the user certificate to the Registry of this Court.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.
- c) This order for release of the vehicle can be pressed into service by the petitioner only if the vehicle is not in the custody of the criminal Court. If the vehicle 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 vehicle, by filing necessary application in the manner known to law.
- d) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the respondents.

8. Upon completion of these formalities, the respondents shall



release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. The Writ Petition is allowed accordingly. No costs.

WEB COPY

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To :

1. The District Collector,
Collector Office, Sivagangai - 630 562.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Sivagangai - 630 562.
3. The Assistant Director,
Geology and Mining Department,
Sivagangai - 630 562.
4. The Inspector of Police,
Manamadurai police station,
Manamadurai - 630 606.

Copy to
The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No. 7362 of 2020
07.07.2020

KB(08.07.2020) 3P 6C