



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 7453 of 2020

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... Petitioner

Vs.

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

2. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.

3. The Inspector of Police,
Vadakadu police station,
Pudukkottai District.

... 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 JCB bearing Registration No.TN-49-BM-2643 seized in connection with Crime No.331 of 2020 on the file of the third respondent based on the petitioner's representation dated 03.06.2020.

For Petitioner	: Mr.G.Sivaraja
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 JCB. It was seized on 24.05.2020 on the ground that it was involved in illegal excavation of sand.

3. The learned Government Advocate states that even though the criminal case has been registered, report is yet to be filed and 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 excavation 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, Pudukkottai District. It will be a non-refundable payment. 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.

Sd/-

Assistant Registrar (Records)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Assistant Director,
Geology and Mining,
Pudukkottai District.
2. The District Collector, Pudukkottai.
3. The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.
4. The Inspector of Police,
Vadakadu Police Station,
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AP(14/07/2020) 3P 5C