



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 7585 of 2020

WEB COPY

T. Shanmugam

... Petitioner

Vs.

1. The District Collector,
Collectorate Buildings,
Ramanathapuram,
Ramanathapuram District.

2. The Assistant Director Mines and Minerals,
Ramanathapuram,
Ramanathapuram District.

3. The Tahsildar,
Paramakudi,
Ramanathapuram District.

4. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

5. The Inspector of Police,
Chatrakudi police station,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fifth respondent to release the petitioner's TEREX (JCB) Machine bearing registration No. TN 65 AE 4417 and entrust the same to the petitioner.

For Petitioner	: Mr. R. Babu Jaganath
For R-1, R-2, R-4 & R-5	: M/s. S. Srimathy, Special Government Pleader.
For R-3	: Mr. P. Athimoolapandian

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 petition mentioned vehicle was seized by the respondents in connection with the alleged illegal transportation of

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sand. The petitioner's counsel states that the petitioner is not figuring as accused in this case. The petition mentioned vehicle/JCB was let out by the petitioner to two persons who told him that it is going to be utilized for taking sand from their patta land. The petitioner states that without his knowledge, the offence was committed.

3. The learned Special Government Pleader states that even though the criminal case has been registered, the vehicle in question is yet to be produced before the jurisdictional Court. The case is still under investigation. I am of the view that so long as the vehicle has not been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicle.

4. The petitioner's counsel gives an undertaking that the petitioner will see to it that the vehicle is not involved in any other offences of similar nature. The vehicle will be produced before the authority or the Court concerned as and when required. The vehicle will not be alienated.

5. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

6. 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, Ramanathapuram District. The District Administration will also spend the same*



immediately on some welfare measures and send the user certificate to the Registry of this Court. The petitioner shall not alienate or encumber the lorry till the proceedings are completed.

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. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// 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.

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AP(15/07/2020) 4P 6C