



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 7686 of 2020

K.Mari

... Petitioner

Vs.

1. The Assistant Director of Mines,
Ramanathapuram District,
Ramanathapuram.

2. The Inspector of Police,
Bazaar police station,
Ramanathapuram.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to release the vehicle JCB bearing registration No.TN65-AK-8220, Chassis No.RAJ3DXSSH02881813 to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.R.Murali

For Respondents : Mr.M.Rajarajan,
Government Advocate.

* * *

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 second respondent in connection with the alleged illegal transportation of sand.

3. The learned Government Advocate 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 learned counsel appearing for the petitioner states that the vehicle will not be alienated.

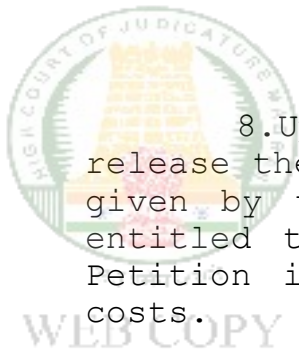
5. The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this 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. In this case, sand was removed only from the patta land and not from any public tank or river. The vehicle involved is a JCB. The vehicle owner may not be aware that the person who hired the vehicle did not have license for transportation. Therefore, I am of the view that the petitioner need not be put on terms. The respondents are directed to release the vehicle in question forthwith subject to the following conditions:-

- a) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.
- c) 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 (CS-II)

// 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,
Ramanathapuram District.
2. The Assistant Director of Mines,
Ramanathapuram District,
Ramanathapuram.
3. The Inspector of Police,
Bazaar police station,
Ramanathapuram.

+1 CC to Mr.R. MURALI, Advocate (SR-13154[F] dated 17/07/2020)

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VB (21.07.2020) 3P 5C