



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.7996 of 2020

Mudhraa Tractor Finance,
Rep. by its Managing Director,
Palanivel,

... Petitioner

Vs.

1.The Assistant Director,
Geology and Mining Department,
Theni, Theni District.

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

3.The Inspector of Police,
Thevaram Police Station,
Thevaram, Theni District.

4.Ravi

... Respondents

[4th respondent is *suo-motu* impleaded vide order dated 24.07.2020 in W.P.(MD)No.7996 of 2020]

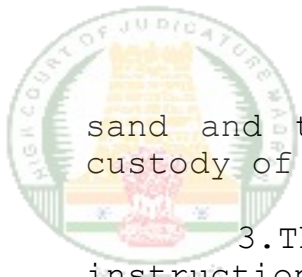
Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's vehicle namely, Tractor bearing Registration No.TN-20-AV-6085 and Trailer bearing Registration No.TN-58-U-3640 seized on 13.07.2019 by the third respondent herein pertaining to the case in Crime No.245 of 2019, within the period that may be stipulated by this Court.

For Petitioner	:	Mr.C.Venkateshkumar for M/s.Ajmal Associates
For R1 to R3	:	Mr.S.Angappan, 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 petition mentioned vehicle was originally purchased by one Ravi. The petitioner is said to have financed the said transaction. Since Ravi committed default, the petitioner repossessed the vehicle and also purchased the same from Ravi. Thereafter, it was re-financed in favour of one Paramasivam. The said Paramasivam committed the offence of illegal transportation of



sand and the vehicle was seized on 13.07.2019. Seeking interim custody of the same, this writ petition has been filed.

3.This Court directed the learned Government Advocate to get instructions from the persons concerned. It is stated that the accused has no objection for the petitioner to take interim custody of the vehicle. Normally, in such cases, this Court will call upon the applicant to remit a certain sum of money. But in this case, the vehicle was seized on in July 2019. Thus, for one year, the petitioner must have suffered sufficient loss already. Therefore, the petitioner need not be put on terms.

4.The learned Government Advocate states that even though a 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 release of the vehicle.

5.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.

6.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.

7. 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.

8.Therefore, the respondents 1 to 3 are directed to release the said vehicle subject to the following conditions:-



- a) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed.
- b) 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.

WEB COPY

9. Upon completion of these formalities, the respondents 1 to 3 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/-

Deputy Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sji

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 Department,
Theni, Theni District.
- 2.The Revenue Divisional Officer,
Theni, Theni District.
- 3.The Inspector of Police,
Thevaram Police Station,
Thevaram, Theni District.

Copy to:

The District Collector,
Theni District.

+1 CC to M/s.GP (SR-13479[F] dated 31/07/2020)

W.P.(MD)No.7996 of 2020

29.07.2020

KK(05.08.2020) 3P 6C