



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.7993 of 2020

Kumar

... Petitioner

Vs

1.The Revenue Divisional Officer,
Melur,
Having Office at Y.Oothakadai,
Madurai District.

2.The Inspector of Police,
Kelavalavoo Police Station,
Madurai District.

3.The Tahsildar,
Melur Taluk,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to release the petitioner's vehicles Ashok Leyland Lorries bearing Registration No.TN-59CY-8044 & TN-59-BS-3845, based on the representation given by the petitioner dated 14.07.2020 within the time stipulated by this Court.

For Petitioner	: Mr.S.MP.Amalan
For Respondents	: Mr.A.Muthukarupan, Government Advocate

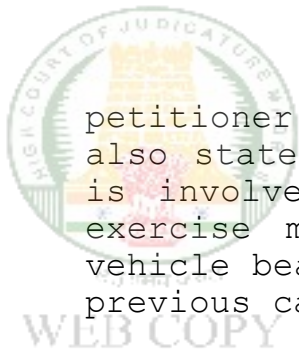
O R D E R

Heard the learned counsel on either side.

2.The petitioner seeks release of the petition mentioned vehicles. They were allegedly involved in illegal transportation of sand. In this regard, a criminal case has already been registered in Crime No.257 of 2020 on the file of the second respondent. However, 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.

3. The learned Government Advocate points out that the

<https://hcservices.ecourts.gov.in/hcservices/>



petitioner is having three previous cases of the same nature. He also states that the vehicle bearing Registration No.TN 59 CY 8044 is involved in a previous case. Therefore, I am not inclined to exercise my discretion for release of the said vehicle. The vehicle bearing Registration No.TN 59 BS 3845 is not involved in any previous case.

4. The petitioner's counsel gives an undertaking that the petitioner will see to it that the said 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 till the proceedings are over.

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 vehicle in question 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 bearing registration No. TN 59 BS 3845 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, Madurai District. It will be a non-refundable payment. 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 vehicle in question till the proceedings are completed.
- b) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle, bearing registration No. TN 59 BS 3845.
- 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, namely, TN 59 BS 3845 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 second respondent is directed to file final report at the earliest. The vehicle bearing Registration No.TN 59 CY 8044 will also be produced before the jurisdictional Criminal Court at the earliest. It is for the petitioner to work out his rights before the Jurisdictional Criminal Court as regards the said vehicle is concerned.

9. This Writ Petition is partly allowed. No costs. There shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

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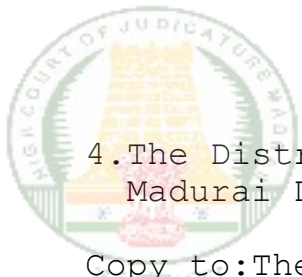
Sub Assistant Registrar(CS)

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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 Revenue Divisional Officer,
Melur,
Having Office at Y.Oothakadai,
Madurai District.
2. The Inspector of Police,
Kelavalavoo Police Station,
Madurai District.
3. The Tahsildar,
Melur Taluk,
Madurai District.



4.The District Collector,
Madurai District, Madurai.

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

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+1 CC to M/s.GP (SR-13247[F] dated 27/07/2020)

W.P. (MD)No.7993 of 2020
24.07.2020

KK(28.07.2020) 4P 7C