



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2020

CORAM:

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

W.P. (MD)No.8295 of 2020

R.Janakiraman

... Petitioner

Vs

1.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

2.The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.

3.The Block Development Officer,
Ottapidaram Panchayat Union,
Thoothukudi District.

4. Assistant Director (Mines and Minerals),
O/o. Assistant Director (Mines & Minerals),
Collectorate Building,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to implement the order passed by the first respondent vide his proceedings in Pa.Mu.A1/3645/2020, dated 10.07.2020 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.M.Rajarajan,
Government Advocate

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2. The petitioner originally filed the Writ Petition for implementing the order passed by the first respondent. The order has now been recalled and therefore, the petitioner's counsel stated that he would independently pray for release of the vehicles that are the subject matter of the writ petition.

3. It is seen that the petitioner is the President of Ayacut Kuzhu, Onamakulam. The petitioner had been granted permission to
<https://hcservices.ecourts.gov.in/hcservices/>



carry out renovation work in respect of Karisalkulam Kanmoi. The proceedings issued in this regard, have also been enclosed in the typed set of papers. The petitioner's counsel states that in order to carry out the said works, he had engaged the following vehicles and machineries to carry out renovation work:-

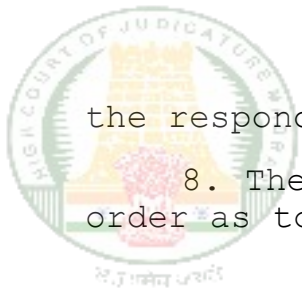
- 1) Tractor bearing Regn. No.TN 67 Y 5927 attached with Trailer Regn. No. TN 50 A 1681.
- 2) Tractor bearing Regn. No.TN 57 Y 2750 attached with Trailer Regn. No. TN 69 K 5829.
- 3) Tractor bearing Regn. No.TN 51 E 7293 attached with Trailer Regn. No. TN 69 AL 1137.
- 4) Tractor bearing Regn. No.TN 76 Y 3312 attached with unnumbered Trailer.
- 5) JCB bearing Regn No. TN 69 BK 4548
- 6) Unnumbered JCB (New Registration)

4. The second respondent herein under was the impression that these vehicles have been brought into custody for illegal sand quarrying. Hence the second respondent chose to register a criminal case in Crime No.79 of 2020 under Section 379 of I.P.C and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. He also seized the said vehicles. Seeking the release of the vehicles, this Writ Petition has been filed.

5. The learned Government Advocate states that even though the criminal case has been registered, the vehicles in question have not been produced before the jurisdictional Court. 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.

6. Since the petitioner shown materials before this Court that he has been issued with work order to carry out renovation work, I *prima facie* find that the vehicles were not engaged in illegal transportation. Of course, the petitioner will have to contest the criminal case independently. I make it clear that the order now releasing the vehicles in question will not have any bearing on the criminal proceedings.

7. Usually, when such release of vehicle was ordered, this Court imposes cost. There are also non-refundable in nature. But, considering the facts and circumstances of the case, such cost need not be imposed. Therefore, the second respondent is directed to release the vehicle in question forthwith and without delay. Of course, The petitioner shall obtain affidavits or undertaking from the owners concerned that they will not alienate or encumber the vehicle till the proceedings are completed. The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle and as and when the respondents call for the vehicles for enquiry, the petitioner has to ensure the vehicles in question are produced and he shall cooperate with the enquiry to be conducted by



the respondents.

8. The Writ Petition is allowed accordingly. There shall be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

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

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AP(04/08/2020) 3P 5C