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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9044 of 2020

R.Saravanan ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

2.The Assistant Director,
Geology, Mines & Minerals,
Ramanathapuuram,
Ramanathapuram District.

3.The Inspector of Police,
Tiruppalaikkudi Police Station,
R.S.Mangalam Taluk,
Ramanathapuram District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to release the petitioner's Tractor bearing registration No.TN-65-P-2037 and Trailer bearing Registration No.TN-65-P-2049 seized by the third respondent on 27.06.2020 to the petitioner within a time frame that may be fixed by this Court.

For Petitioner : Mr.K.Saravanan
For Respondents : Mr.S.Angappan
Government Advocate

O R D E R

Heard the learned counsel on either side.

2. The petition mentioned vehicle was seized 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

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

a) *The petitioner is directed to take a Demand Draft for a sum of* ***Rs.25,000/-*** *(Rupees* ***Twenty Five Thousand only)*** ***i****n favour of the Officer-in-Charge, High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai, in S.B.A/c.No.496037387 and IFSC : IDIB000H040 in Indian Bank, High Court Branch, Madurai. It will be a non refundable payment. The Registrar (Judicial) is directed to ensure that the said sum is withdrawn immediately and spent for the welfare of the Advocates' Clerks associated with the Madurai Bench of Madras High Court, Madurai.*

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b) *The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.*

c) *The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.*

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(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

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,
Ramanathapuram,
Ramanathapuram District.

2.The Assistant Director,
Geology, Mines & Minerals,
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Ramanathapuram District.

3.The Inspector of Police,
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COPY TO
1.The Registrar(Judicial),
Madurai Bench of Madras High Court, Madurai.

2.The Officer-in-charge,
High Court Legal Services Committee,
Madurai bench of Madras High Court, Madurai.

+1 CC to M/s.GP (SR-13907[F] dated 12/08/2020)

W.P.(MD)No.9044 of 2020
07.08.2020

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