



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9043 of 2020

Muthuraman

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Revenue Divisional Office,
Thanjavur,
Thanjavur District.

2. The Tahsildar,
Taluk Office,
Thiruvaiyaru Taluk,
Thanjavur District.

3. The Inspector of Police,
Nadukaveri Police station,
Thanjavur District.

4. The Assistant Director,
Tamilnadu Mines and Minerals,
Thanjavur District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 24.07.2020 immediately and release the petitioner's Tipper Lorry bearing in Registration No. TN-49-BA-3130 seized by the 3rd respondent herein on 22.07.2020 and hand over to the petitioner.

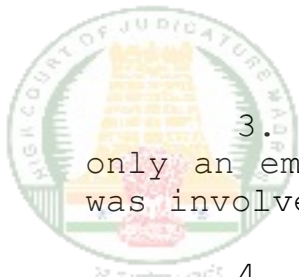
For Petitioner : Mr.S.Sathya Chidambaram
For Respondents : Mr.M.Rajarajan,
Additional Government Pleader.

* * *

O R D E R

Heard the learned counsel on either side.

2. The petitioner seeks release of the petition mentioned vehicle.



3. The petitioner would point out that the police had seized only an empty vehicle. There is nothing on record that the vehicle was involved in any illegal transportation of sand.

4. Per contra, the learned Additional Government Pleader would point out that the vehicle was seized after they are already unloaded the illegally quarried sand. The learned Additional Government Pleader would point out that as many as five vehicles were coming in the Kanmai and three vehicles had sand loaded while two vehicles were empty. There were also traces that the vehicle had earlier transported sand.

5. Though the sand of the learned Additional Government Pleader carries considerable weight, I am of the view that when the seizure was made, it was only an empty vehicle. This Court will not be justified in putting the entire onus on the petitioner. At the same time, the petitioner's counsel on instructions states that the petitioner will remit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only).

6. 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.

7. 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.

8. 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.



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

- a) The petitioner is directed to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the Officer-in-Charge, High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai, S.B.A/c.No.496037387, IFSC : IDIB000H040, Indian Bank, High Court Branch, Madurai. It will be a non refundable payment. The Registrar (Judicial) is directed to spend the amount for the welfare of the Advocate clerks associated with the District Court in Madurai District.
- 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.

10. 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

// True Copy //

/ /2020

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,
Revenue Divisional Office,
Thanjavur,
Thanjavur District.

2. The Tahsildar,
Taluk Office,
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Thanjavur District.

3. The Inspector of Police,
Nadukaveri Police station,
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4. The Assistant Director,
Tamilnadu Mines and Minerals,
Thanjavur District.

Copy to: 1. The Registrar (Judicial)
Madurai Bench of Madras High Court
Madurai.

2. The Officer in-charge,
High Court Legal Service Committee,
Madurai Bench of Madras High Court, Madurai.

+1 CC to The SPL GP (SR-14638[F] dated 21/08/2020)

W.P. (MD) No. 9043 of 2020
19.08.2020

CS (25.08.2020) 4P 8C