



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10411 of 2020

M.M.Traders,
represented by its Proprietor,
Elavarasan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Melur, Madurai District.

2.The Assistant Director,
Department of Geology and Mining,
Madurai District.

3.State represented by
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(Crime No.333 of 2020)

... 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 vehicle (Tipper) bearing Registration No.TN-59-CD-6770 by considering the representation of the petitioner dated 06.06.2020 within the time limit stipulated by this Court.

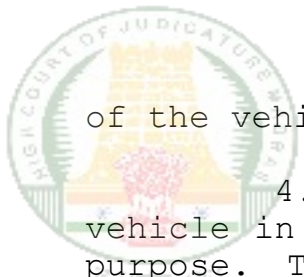
For Petitioner : Mr.M.Jegadeesh Pandian
For Respondents : Mr.P.Mahendran
Additional Government Pleader

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 seized in connection with the alleged illegal transportation of sand.

3. The learned Additional Government Pleader 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.

4. 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."

5. The learned Additional Government Pleader points out that the petitioner is having one previous case of the same nature. The vehicle is also involved in the previous case. I was not inclined to show any indulgence to the petitioner. But then, the petitioner's counsel pleaded that the petitioner will file an undertaking affidavit that neither himself nor the vehicle will never ever get involved in the case of similar nature. I am granting relief to the petitioner based on the undertaking given by the petitioner. I make it clear that if the undertaking given by the petitioner is breached, the order now passed will be vacated and the vehicle will be taken back to the custody of the respondents. I am granting relief to the petitioner based on the undertaking given by the petitioner. 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 appropriate welfare activities such as feeding the disadvantaged communities 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.*



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

Sd/-

Assistant Registrar (CS-II)

// True Copy //

WEB COPY

/ /2020

Sub Assistant Registrar(CS)

tsg

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,
Office of the Revenue Divisional Office,
Melur, Madurai District.
- 2.The Assistant Director,
Department of Geology and Mining,
Madurai District.
- 3.The Inspector of Police,
Silaiman Police Station,
Madurai District.

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

2.The Officer Incharge,
High Court Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.GP (SR-15580[F] dated 01/09/2020)

W.P. (MD) No.10411 of 2020

31.08.2020

AP (08/09/2020) 3P 7C