



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.9872 & 9875 of 2020

V.Pasumalai ... Petitioner in W.P. (MD)No.9872 of 2020
P.Ayyanmoorthy ... Petitioner in W.P. (MD)No.9875 of 2020

Vs.

1. The Assistant Director,
Mines and Minerals Department,
Ramanathapuram District.
2. The Sub Collector cum Revenue Divisional Officer,
Revenue Divisional Office,
Paramakudi, Ramanathapuram District.
3. The Tahsildar,
Kadaladi Taluk, Ramanathapuram District.
4. The Inspector of Police,
Valinokkam police station,
Ramanathapuram,
Ramanathapuram District. ... Respondents in both petitions

Prayer in W.P.(MD)No.9872 of 2020: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 2 to 4 herein forthwith to release the petitioner's Tipper lorry bearing registration No.TN 19-H-1591 from their custody on the basis of his representation dated 07.08.2020.

Prayer in W.P.(MD)No.9875 of 2020: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 2 to 4 forthwith to release the petitioner's JCB bearing registration No.TN 51-K-3269 from their custody on the basis of his representation dated 07.08.2020.

(in both W.Ps.)

For Petitioner	: Mr.M.Chandrabose
For Respondents	: Mr.M.Rajarajan, Additional Government Pleader in W.P. (MD)No.9872 of 2020 Mr.P.Mahendran, Additional Government Pleader in W.P. (MD)No.9875 of 2020



C O M M O N O R D E R

Heard the learned counsel on either side.

2. The petition mentioned vehicles were 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 vehicles in question are yet to be produced before the jurisdictional Court. The case is still under investigation. I am of the view that so long as the vehicles have not been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicles.

4. The petitioners' counsel gives an undertaking that the petitioners will see to it that the vehicles are not involved in any other offences of similar nature. The vehicles will be produced before the authority or the Court concerned as and when required. The learned counsel appearing for the petitioners states that the vehicles will not be alienated.

5. The submission of the learned counsel for the petitioners is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicles 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 vehicles 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 vehicles subject to the following conditions:-

- a) The petitioners are directed to pay a sum of Rs.40,000/- (Rupees Forty 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 Courts.

- b) The petitioners shall not alienate or encumber the vehicles in question till the proceedings are completed.
- c) The petitioners shall produce all the documents pertaining to the ownership of the seized vehicles.
- d) As and when the respondents call for the vehicle for enquiry, the petitioners have to produce the vehicles in question and they shall cooperate with the enquiry to be conducted by the respondents.

8. Upon completion of these formalities, the respondents shall release the vehicles forthwith without any delay. If this undertaking given by the petitioners is breached, the petitioners will not be entitled to interim release of the vehicle in future. These Writ Petitions are allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (Crl. side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: 1.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 Assistant Director,
Mines and Minerals Department,
Ramanathapuram District.
2. The Sub Collector cum Revenue Divisional Officer,
Revenue Divisional Office,
Paramakudi, Ramanathapuram District.



3. The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

4. The Inspector of Police,
Valinokkam police station,
Ramanathapuram,
Ramanathapuram District.

Copy To:

1. The High Court Legal Services Committee,
Madurai Bench of Madras High Court, Madurai.
2. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-14887,14915[F] dated
25/08/2020)

W.P. (MD) Nos. 9872 & 9875 of 2020
24.08.2020

pmu

AE/ (27.08.2020) 4P 8C