



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9956 of 2020

P.Rajapandi

... Petitioner

Vs.

1.The Assistant Director of Mines & Minerals,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Thirumangalam Taluk,
Madurai District.

3.The Sub Inspector of Police,
Kallikudi Police Station,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second and third respondents to release the petitioner's Tractor with Trailor bearing Registration No.TN 58 Y 3684 and TN 58 AX 4129, on the basis of the petitioner's representation dated 12.08.2020, within the stipulated time frame fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.S.Angappan, Government Advocate

ORDER

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 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 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 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 offence 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 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 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.*

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.

9. At this stage, the learned Government counsel on instructions from the third respondent submitted that even though the jurisdictional police are seizing the vehicles that have been found illegally transporting sand, the Revenue Authorities are not stepping in immediately. The Revenue Authorities will have to value the contraband and also can auction the same. Since the Revenue Authorities are not acting expeditiously in the matter, the police are unable to produce the vehicle before the jurisdictional Criminal Court. In the meanwhile, the vehicle owners move the High Court and are taking back the interim custody of the vehicle. This according to the Government Advocate, seriously prejudices public interest. I find considerable force in the said submission of the learned Government Advocate.

10. Therefore, all the District Collectors of the Districts falling within the jurisdiction of this Court are directed to instruct the concerned Revenue Authorities, to respond to the requests made by the jurisdictional police officers in this regard. In other words, there has to be perfect co-ordination between the Revenue Authorities and the jurisdictional police.

11. Registry will seek permission from the Honourable Administrative Judge to circulate this direction to all the District Collectors of the Districts, coming within the jurisdiction of this Bench.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Assistant Director of Mines & Minerals,
Madurai District,
Madurai.
- 2.The Revenue Divisional Officer,
Thirumangalam Taluk,
Madurai District.
- 3.The Sub Inspector of Police,
Kallikudi Police Station,
Madurai District.

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.

W.P. (MD)No.9956 of 2020
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