



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10869 of 2020

C.Roshan

... Petitioner

Vs.

1. The Assistant Director of Mines and Minerals,
Thanjavur District.

2. The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.

3. The Inspector of Police,
Nachiyar Kovil police station,
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 release the petitioner's Tata Hitachi Hydraulic Excavator Model Ex 200 LC Super Backhoe with GP Bucket and kit (Machine Sl.No.5200-20247 (Non R.C.) within the time stipulated by this Court.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.S.Angappan,
Government Advocate.

O R D E R

Heard the learned counsel on either side.

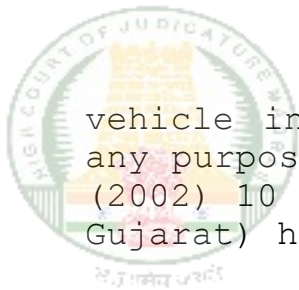
2. The petition mentioned vehicle was seized in connection with the alleged illegal transportation of sand.

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 still under investigation. He also points out that the petitioner is having one previous case.

4. The petitioner gives an undertaking through his counsel that he will not involve himself in any other case in future. Likewise, the vehicle also will not be involved.

5. The said undertaking given by the petitioner is recorded. If this undertaking is breached, the order now passed will stand recalled and the vehicle in question will be taken back to custody.

<https://hcservices.courts.gov.in/hcservices/> 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.50,000/- (Rupees Fifty 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.

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 and Minerals,
Thanjavur District.
2. The Revenue Divisional Officer,
Kumbakonam,
Thanjavur District.
3. The Inspector of Police,
Nachiyar Kovil police station,
Thanjavur 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 Mr.T.S. MOHAMED MOHIDHEEN, Advocate (SR-15872[F] dated 03/09/2020)

+1 CC to SGP (SR-15960[F] dated 04/09/2020)

W.P.(MD)No.10869 of 2020
03.09.2020

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