



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.11136 of 2020

Subash

... Petitioner

Vs.

1.The Assistant Director,
Geology and Mining,
Madurai District.

2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3.The Inspector of Police,
M.Kallupatti Police Station,
Madurai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the Swaraj 735 FE Blue Colour Tractor bearing Registration No.TN-49-AA-1289 (Engine No.39.1340/SHK07063, Chassis No.QYCL31719130093) along with trailer (Chassis No.SAT2W067/2006) seized in connection with Crime No.644 of 2020 on the file of the 3rd respondent based on the petitioners representation dated 26.08.2020.

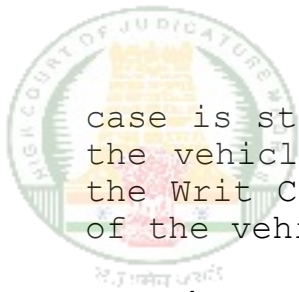
For Petitioner : Mr.T.Palanisamy
For Respondents : Mr.M.Rajarajan
Additional Government Pleader

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 informs this Court that the petitioner is having one previous case in same nature. I was not inclined to grant relief to the petitioner. Thereupon, the petitioner's counsel on instructions gives an undertaking before this Court that the petitioner will see to it that the vehicle will never ever get involved in the case of similar nature. If the undertaking is breached, this order will stand recalled and the vehicle will be taken back to the custody. 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.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.*



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

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

dss/ias

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,
Geology and Mining, Madurai District.
2. The Revenue Divisional Officer,
Usilampatti, Madurai District.
3. The Inspector of Police,
M.Kallupatti Police Station,
Madurai District.

Copy to :

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

+1 CC to the Spl.GP SR-16403[F] dated 09/09/2020)

W.P. (MD)No.11136 of 2020

08.09.2020

CS: 14.09.2020 7C