



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11109 of 2020

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Hariharan

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.

2.The Assistant Director,
Mines and Minerals Department,
Sivagangai District.

3.The Inspector of Police,
Sipcot Police Station,
Sivagangai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to release the vehicle bearing Registration No.TN-63-BC-0466 to the petitioner forthwith based on the representation dated 02.09.2020.

For Petitioner : Mr.P.Senguttuarasan

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 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

<https://hccereml.gov.in/> as follows:-



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"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 Government Advocate points out that the petitioner is having a previous case of the same nature. He would point out that the petition mentioned vehicle is also involved in a case of illegal sand transportation.

6. Though I would have non-suited the petitioner on this ground, the petitioner's counsel wants me to show some indulgence taking note of the special facts and circumstances obtaining in this case.

7. The petitioner's counsel states that the petitioner would file a affidavit of undertaking to the effect that neither he nor the petition mentioned vehicle would ever get involved in any criminal case. If this undertaking given by the petitioner is breached, it is open to the respondents to bring it to my notice and I will not hesitate to recall this order and the petition mentioned vehicle also will be taken back to custody. The petitioner's counsel on instructions states that the petitioner is willing to file an undertaking affidavit to this effect. Such an undertaking affidavit will be filed before this Court within a period of two weeks from the date of receipt of a copy of this order.

8. 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.

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

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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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,
Sivagangai, Sivagangai District.
- 2.The Assistant Director,
Mines and Minerals Department,
Sivagangai District.
- 3.The Inspector of Police,
Sipcot Police Station,
Sivagangai District.

Copy to :

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

+1 CC to SGP (SR-16217[F] dated 08/09/2020)

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