



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.12151 of 2020

M.Vallarasu

... Petitioner

Vs.

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

2.The Assistant Director,
Mines and Minerals Department,
Thanjavur.

3.The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.
(Crime No.1185 of 2020)

... 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 bullock cart seized by the third respondent dated 06.08.2020 on the basis of the petitioner's representation dated 10.08.2020.

For Petitioner : Mr.U.Umamaheswaran

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. The learned Additional Government Pleader informs the Court that the petitioner is having one previous case of the same nature.

4. Initially, I do not want to grant relief. The learned counsel states that the petitioner would file an



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 learned counsel appearing for the petitioner states that the vehicle will not be alienated. 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.

5. 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.

6. Therefore, the respondents are directed to release the said vehicle subject to the following condition:-

a) *The petitioner is directed to pay a sum of Rs.1,000/- (Rupees One Thousand only) in favour of Sri Jayam Trust, A/c.No.005109000074101, IFSC : CIUB0000005, City Union Bank, Mayiladuthurai Branch. It will be a non refundable payment.*

7. Upon completion of this formality, the respondents shall release the vehicle forthwith without any delay. The Writ Petition is allowed accordingly. There shall be no order as to costs.

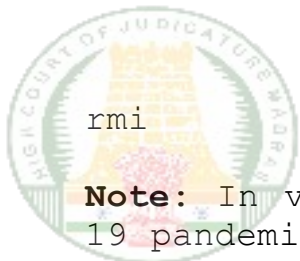
Sd/-

Assistant Registrar ()

// 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,
Kumbakonam, Thanjavur District.
- 2.The Assistant Director,
Mines and Minerals Department,
Thanjavur.
- 3.The Inspector of Police,
Ayyampettai Police Station,
Thanjavur District.

Copy To:

Sri Jayam Goshala,
Vanathirajapuram,
Mayiladuthurai,
Nagapattinam District.

+1 CC to SGP (SR-17703[F] dated 22/09/2020)

W.P. (MD)No.12151 of 2020
21.09.2020

SCR(CO)
KM (30.09.2020) 3P 6C