



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.12461, 12463 & 12466 of 2020

WEB COPY

N.Krishnan ... Petitioner in WP(MD)No.12461 of 2020
S.Nagarajan ... Petitioner in WP(MD)No.12463 of 2020
M.Sathiyendaran ... Petitioner in WP(MD)No.12466 of 2020

Vs.

1.The Sub Collector cum Revenue Divisional Officer,
Ramanathapuram, Ramanathapuram District.

2.The Assistant Director of Mines,
Department of Geology and Mining,
Ramanathapuram District.

3.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

... Respondents in all writ petitions

Common Prayer: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the JCB bearing registration No.TN 65 S 0930, Tipper Lorry bearing registration Nos.TN-65-AB-1851 and TN 63 AD 0632 seized on 11.09.2020, by the third respondent by considering the representation of the petitioners' dated 15.09.2020, respectively.

In all writ petitions

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents.

2.In connection with Crime No.342 of 2020 registered on the file of the Inspector of Police, Devipattinam Police Station, the petition mentioned vehicles have been seized.



3. The learned Special Government Pleader states that even though the criminal case has been registered, the vehicles in question are yet to be produced before the jurisdictional Court. The case is still under investigation. I am of the view that so long as the vehicles have not been produced before the Jurisdictional Court, the Writ Court will always have the power to direct for the release of the vehicles.

4. The petitioners' counsel gives an undertaking that the petitioners will see to it that the vehicles are not involved in any other offences of similar nature. The vehicles will be produced before the authority or the Court concerned as and when required. The learned counsel appearing for the petitioners states that the vehicles will not be alienated.

5. The submission of the learned counsel for the petitioners is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicles in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

6. I am of the view that keeping the petition mentioned vehicles 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. The learned counsel appearing for the writ petitioners would contend that one M.K.Thirumurugan, was awarded the contract of renovation of certain water bodies, by the District Collector, Ramanathapuram District and the said contractor has engaged the vehicles in question.

8. On the other hand, the First Information Report reads that the sand was removed from the patta land without any authorisation. It is not the case of the respondents that the river sand or kanmoi sand have been transported in the said vehicles.



9. Therefore, I am inclined to show some indulgence while fixing the quantum of cost. The respondents are directed to release the said vehicles subject to the following conditions:-

- a) The petitioners are directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 petitioners shall not alienate or encumber the vehicles in question till the proceedings are completed.
- c) The petitioners shall produce all the documents pertaining to the ownership of the seized vehicles.
- d) As and when the respondents call for the vehicles for enquiry, the petitioners have to produce the vehicles in question and they shall cooperate with the enquiry to be conducted by the respondents.

10. Upon completion of these formalities, the respondents shall release the vehicles forthwith without any delay. If this undertaking given by the petitioners are breached, the petitioners will not be entitled to interim release of the vehicles in future. These Writ Petitions are allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rm

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 Sub Collector cum Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.
- 2.The Assistant Director of Mines,
Department of Geology and Mining,
Ramanathapuram District.
- 3.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram 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 M/s.GP (SR-18675, 18676, 18677[F] dated 01/10/2020)

W.P. (MD) Nos.12461, 12463 & 12466 of 2020
29.09.2020

sr(CO)

TR(01.10.2020) 4P 7C