



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12702 of 2020

and

W.M.P.(MD)No.11172 of 2020

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Bheemaa Tractor Finance,
Represented by its Managing Director,
D.Ganesan,
D.No.93/20-W, Kondithozhu Street,
Cumbum, Theni District.

... Petitioner

-Vs-

1.The Assistant Director,
Geology & Mining Department,
Virudhunagar, Virudhunagar District.

2.The Revenue Divisional Officer,
Rajapalayam, Virudhunagar District.

3.The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam, Virudhunagar District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to release the petitioner's vehicle namely, Tractor bearing Registration No.TN 55 AE 2370 and Trailer bearing Registration No.TN 58 Z 7540 seized on 21.03.2020 by the third respondent herein pertaining to the case in Crime No.120 of 2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.V.Karthikraja

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner seeks release of the petition mentioned vehicle. The vehicle was seized from one Anandraj.



3.The learned Additional Government Pleader appearing for the respondents points out that the said Anandraj is having very large number of mining cases to his credit. But the said Anandraj is no more. The Registration Book reflects the name of one Mathialagan. But the said Mathialagan is not having any interest in the matter. The vehicle has been hypothecated only by the petitioner herein.

4.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.

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

6.The submission of the learned counsel for the petitioner is placed on record. If the undertaking given before this Court is breached, the benefit of this order will stand recalled and the vehicle 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.

7.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.

8.Normally, this Court would impose payment of cost. But the petitioner is the financier, not an accused. Therefore, I refrain from imposing any cost on the petitioner. The respondents are



directed to release the said vehicle to the petitioner forthwith and without any delay. This Writ Petition is allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

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 & Mining Department,
Virudhunagar, Virudhunagar District.
- 2.The Revenue Divisional Officer,
Rajapalayam, Virudhunagar District.
- 3.The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam, Virudhunagar District.

+1 CC to M/s.GP (SR-19168[F] dated 06/10/2020)

Order made in

W.P. (MD) No.12702 of 2020

01.10.2020

SS (CO)

AP (02/11/2020) 3P 5C