



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.10.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.13213 of 2020

WEB COPY

Jeyaraj

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District,
Theni.

2.The Inspector of Police,
Uthamapalayam Civil Supplies CID Unit,
Theni District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle (Ashok Leyland Lorry) bearing Registration No.KL 69 A 5499 which was seized by the second respondent.

For Petitioner	: Mr.R.Venkatesan
For Respondents	: Mrs.S.Srimathy, Special Government Pleader

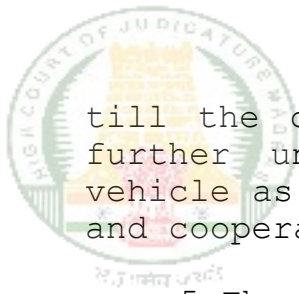
O R D E R

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 petitioner seeks release of petition mentioned vehicle. The vehicle was seized for having violated the provisions of the Essential Commodities Act in Crime No.184 of 2019 registered on the file of the second respondent for the offence under Section 6(4) of TNSC (RDCS) Order 1982 r/w Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

3.The learned Special 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.The petitioner's counsel on instructions gives an undertaking that the petitioner will not alienate the petition mentioned vehicle



till the confiscation proceedings are over. He also gives a further undertaking that the petitioner will also produce the vehicle as and when the respondents call for the vehicle for enquiry and cooperate with the enquiry to be conducted by the respondents.

5.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.

6. 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.

7.The petitioner's counsel states that the petitioner had earlier moved the Court of Judicial Magistrate. The petition was allowed. Questioning the same, the Government filed revision before the Sessions Court. The learned Principal Sessions Court vide order dated 14.02.2020 set aside the order of the learned Judicial Magistrate on the ground that the criminal Court has no jurisdiction. The petitioner's counsel further states that crime number was registered in the year 2019. Therefore, I refrain from imposing any costs in this Writ Petition.

8.I am of the view that this writ petition is very much maintainable. Without prejudice to the confiscation proceedings, the vehicle can be directed to be returned to the petitioner herein subject to the following conditions:-

a)The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.

b)The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle.

c)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. Upon completion of these formalities, the respondents shall release the vehicle forthwith without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future. Confiscation proceedings can go on. The Writ Petition is allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gns

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 District Revenue Officer,
Theni District, Theni.

2. The Inspector of Police,
Uthamapalayam Civil Supplies CID Unit,
Theni District.

+1cc to Special Government Pleader, SR.No. 18965

W.P. (MD) No. 13213 of 2020

SRK(CO)

01.10.2020

NR (16/10/2020) 3P : 4C