



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.10.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.14729 of 2020

S.Babu

... Petitioner

Vs

1.The Assistant Director of Mines and Minerals,
Thanjavur District.

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

3.The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.

... Respondents

PRAYER: Petition 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 Eicher Tractor with Tipper bearing Registration TN 46 E 4830.

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mrs.M.Rajeswari
Government Advocate

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's vehicle viz., Eicher Tractor with Tipper bearing Registration TN 46 E 4830.

2. Heard Mr.T.S.Mohamed Mohideen, learned counsel appearing for the petitioner, Mrs.M.Rajeswari, learned Government Advocate appearing for the respondents.

3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4. It is the case of the petitioner that he is the owner of the Eicher Tractor with Tipper bearing Registration TN 46 E 4830. According to him, he used the vehicle for filling the sand in the agricultural land and also carrying materials for the agricultural and other purpose legally. On 15.03.2020, the third respondent has registered a case against the petitioner in Crime No.64 of 2020 for



the offence punishable under Section 379 of I.P.C., alleging that the petitioner has transported savudu sand illegally in his vehicle. The petitioner's vehicle was seized by the third respondent Police on the same date.

5. It is the contention of the petitioner that the vehicle has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized vehicle is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle will lose its value and may, ultimately become a wreck and worthless. In such circumstances, this Writ Petition has been filed seeking for release of the said vehicle.

6. The petitioner has also given a representation on 09.10.2020 to the respondents seeking for release of the said seized vehicle. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the vehicle, which was seized by the third respondent, is kept in the open place, it will not be useful to anyone in the near future and if it is continued to remain in the open, it has to face the vagaries of nature and ultimately will become a wreck and worthless. However, whether the petitioner has committed the alleged offence or not can be adjudicated only after trial before the Criminal Court. Till such time, the vehicle cannot be kept idle. Therefore, this Court is inclined to grant similar relief to the petitioner subject to fulfillment of the following conditions:-

(i)the petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** in favour of the second respondent within a period of two weeks from the date of receipt of a copy of this order.

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

(iii)the petitioner shall not change the colour and scheme of the vehicle.

(iv)the petitioner shall not use the vehicle for any illegal activities.

(v)before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vi)The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the second respondent.

(vii)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.



7. Upon completion of the above mentioned formalities, the respondents shall release the Eicher Tractor with Tipper bearing Registration TN 46 E 4830, to the petitioner forthwith and without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled for interim release of the vehicle in the future.

8. The Writ Petition is disposed of accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// 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 Assistant Director of Mines and Minerals,
Thanjavur District.

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

3.The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.

+1 CC to SPL.GP (SR-20708[F] dated 29/10/2020)

+1 CC to Mr.T.S. MOHAMED MOHIDHEEN, Advocate (SR-20737[F] dated 29/10/2020)

W.P. (MD)No.14729 of 2020
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VB (05.11.2020) 3P 6C