



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.15646 of 2020

WEB COPY

Rajan

... Petitioner

Vs

1.The Assistant Director,
Department of Geology and Mines,
Nagercoil, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram, Thackalay,
Kanyakumari District.

3.State represented by its
The Sub Inspector of Police,
Marthandam Police Station,
Marthandam, Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third respondent herein to release TATA 407 tipper bearing Registration No.TN 75 AF 8969 forthwith.

For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondents : Mrs.M.Rajeswari
Government Advocate

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the third respondent herein to release TATA 407 tipper bearing Registration No.TN 75 AF 8969 forthwith.

2. Mrs.M.Rajeswari, learned Government Advocate, accepts notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.N.S.Ramakrishna Dass, learned counsel appearing for the petitioner and Mrs.M.Rajeswari, learned Government Advocate, appearing on behalf of the respondents.

4. It is the case of the petitioner that he is the owner of the TATA 407 tipper bearing Registration No.TN 75 AF 8969. According to the petitioner, on 03.10.2020, the third respondent seized the vehicle and registered a case against the petitioner in Crime No.888 of 2020 for the offence punishable under Section 379 I.P.C., alleging that the petitioner has transported red soil without proper



invoices. According to the petitioner, ever since the seizure, the said vehicle is still in the custody of the third respondent Police.

5. It is also 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 him, the seized vehicle is now kept idle in the Police Station premises in the open place and exposed to the vagaries of nature, resulting in the vehicle depreciating in value.

6. According to the petitioner, he gave a representation to the respondents 2 and 3 on 29.10.2020 for releasing of the seized vehicle back to him. According to him, the respondents 2 and 3 failed to respond to the said representation. In such circumstances, he has filed this Writ Petition seeking for release of the seized vehicle.

7. Admittedly, the vehicle was seized by the third respondent on 03.10.2020 and a case has been registered by the third respondent Police against the petitioner in Crime No.888 of 2020 for the offence punishable under Section 379 I.P.C., alleging that the petitioner has transported red soil without proper invoices. Admittedly, the vehicle is now in the Police Station premises and kept in the open place and exposed to the vagaries of nature and the vehicle has also not been produced before the Jurisdictional Court.

8. As rightly contended by the learned counsel appearing for the petitioner, the vehicle will certainly depreciate in value, if it is allowed to remain in the open place and kept idle for a long period of time. No useful purpose will be served if the vehicle is allowed to be kept idle. In similar matters, this Court has granted release of seized vehicle to the respective petitioners subject to fulfillment of certain conditions. 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.25,000/- (Rupees Twenty Five 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.

9. Upon completion of the above mentioned formalities, the respondents shall release the TATA 407 tipper bearing Registration No.TN 75 AF 8969 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.

10. 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)

tsg

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,
Department of Geology and Mines,
Nagercoil, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram, Thackalay,
Kanyakumari District.

3.The Sub Inspector of Police,
Marthandam Police Station,
Marthandam, Kanyakumari District.

+1 CC to M/s.N.S.RAMAKRISHNAN DASS, Advocate (SR-21651[F] dated 10/11/2020)

+1 CC to M/s.SGP (SR-21762[F] dated 10/11/2020)

W.P. (MD)No.15646 of 2020

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