



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16081 of 2020

M.Kottaisamy

... Petitioner

Vs

- 1.The District Collector,
Office of the District Collectorate,
Ramanathapuram District.
- 2.The Assistant Director,
Mines and Minerals,
Ramanathapuram, Ramanathapuram District.
- 3.The Revenue Divisional Officer,
Revenue Divisional Office,
Paramakudi, Ramanathapuram District.
- 4.The Tahsildar,
Kamuthi, Ramanathapuram District.
- 5.The Inspector of Police,
Kamuthi Police Station,
Ramanathapuram District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the third and fifth respondents herein to forthwith release the petitioner's bullock cart from their custody on the basis of the petitioner's representation dated 04.11.2020.

For Petitioner : Mr.R.Tamilvanan

For Respondents : Mr.A.Karthik
Government Advocate

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the third and fourth respondents herein to release the petitioner's bullock cart from their custody on the basis of the petitioner's representation dated 04.11.2020.

2. Mr.A.Karthik, learned Government Advocate, accepts notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage



3. Heard Mr.R.Tamilvanan, learned counsel appearing for the petitioner and Mr.A.Karthik, learned Government Advocate appearing for the respondents.

4. It is the case of the petitioner that he is an agriculturist and he is having a bullock cart for the purpose of carrying goods for agricultural activities. According to him, on 19.06.2020, the fifth respondent Police seized the bullock cart and registered a case in Crime No.365 of 2020 for the offence punishable under Section 379 I.P.C., read with Section 21(1) of Mines and Minerals (Development and Regulation Act), 1957, alleging that the petitioner has transported sand in his bullock cart. According to him, ever since the seizure, the said bullock cart is still in the custody of the fifth respondent Police.

5. It is also the contention of the petitioner that the bullock cart has also not been produced by the fifth respondent Police before the concerned Jurisdictional Court. According to him, the seized bullock cart is kept idle in the Police Station premises in the open place and exposed to the vagaries of nature, resulting in the bullock cart depreciating in value.

6. According to the petitioner, he gave a representation to the respondents 3 to 5 on 04.11.2020 for releasing of the seized bullock cart back to him. According to him, the respondents have failed to respond to the said representation. In such circumstances, he has filed this Writ Petition seeking for release of the seized bullock cart.

7. Admittedly, the bullock cart was seized by the fifth respondent on 19.06.2020 and a case has been registered in Crime No.365 of 2020 for the offence punishable under Section 379 I.P.C., read with Section 21(1) of Mines and Minerals (Development and Regulation Act), 1957, alleging that the petitioner has transported sand in his bullock cart. Admittedly, the bullock cart is now in the Police Station premises and kept in the open place and exposed to the vagaries of nature and has also not been produced before the Jurisdictional Court.

8. As rightly contended by the learned counsel appearing for the petitioner, the bullock cart 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 bullock cart is allowed to be kept idle. In similar matters, this Court has granted release of seized vehicles 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.3,000/- (Rupees Three Thousand only)** in favour of the third respondent within a period of two weeks from the date of receipt of a copy of this order.

(ii)the petitioner shall not use the bullock cart for any illegal activities.

(iii)before releasing the bullock cart, the police authority shall take photographs of the bullock cart at the cost of the petitioner.

(iv)As and when the respondents call for the bullock cart for enquiry, the petitioner has to produce the bullock cart 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 bullock cart 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 bullock cart in the future.

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

Sd/-

Assistant Registrar (CO)

// 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 District Collector,
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4.The Tahsildar,
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5.The Inspector of Police,
Kamuthi Police Station,
Ramanathapuram District.

+1 CC to SGP (SR-22180[F] dated 19/11/2020)

W.P. (MD)No.16081 of 2020
18.11.2020

CK(CO)

KM (26.11.2020) 4P 7C