



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16364 of 2020

Shunmugasundari

... Petitioner

Vs

1.The Revenue Divisional Officer,
Thoothukudi, Thoothukudi District.

2.The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.

3.The Assistant Director of Geology and Mining,
Collector Office, Thoothukudi,
Thoothukudi District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st respondent to release the petitioner's vehicle bearing registration No.TN 69 AE 5222 and to hand over the above vehicle to the petitioner forthwith, by considering the petitioner's representation dated 02.11.2020 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.N.Ramesh Arumugam

For Respondents : Mr.A.Muthukaruppan

Additional Government Pleader

ORDER

(This petition is heard through Video Conference)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's vehicle namely Lorry bearing Registration No.TN 69 AE 5222 forthwith.

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

3. It is the case of the petitioner that she is an agriculturist and she is the owner of the vehicle namely vehicle namely Lorry bearing Registration No.TN 69 AE 5222. According to her, on 31.10.2020, the Special Revenue Inspector (Mines) seized the vehicle, alleging that the petitioner has illegally transported M.sand in his vehicle without proper bills and handed over the same to the second respondent. The second respondent registered a case in Crime No.190 of 2020 for the offence punishable under Section 379 of IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. According to her, ever since the seizure, the vehicle is



still in the custody of the second respondent and till date, no confiscation proceedings have been initiated against the seized vehicle.

4. It is also the contention of the petitioner that the vehicle has also not been produced by the second respondent before the concerned Jurisdictional Court. According to her, the seized vehicle is 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.

5. According to the petitioner, she gave a representation to the respondents on 02.11.2020, for releasing of the seized vehicle back to her. According to her, the respondents have failed to respond to the said representation. In such circumstances, she has filed this Writ Petition seeking for release of the seized vehicle.

6. Admittedly, the vehicle was seized by the second respondent on 31.10.2020, alleging that the petitioner has illegally transported sand in her vehicle without proper bill and registered a case in Crime No.190 of 2020 for the offence punishable under Sections 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulations) Act, 1957. Admittedly, the vehicle 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.

7. 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 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.25,000/- (Rupees Twenty five Thousand only)** in favour of the first 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 first respondent.

(vii)As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and she shall cooperate with the enquiry to be conducted by the respondents.

8. Upon completion of the above mentioned formalities, the respondents shall release the vehicle namely Lorry bearing Registration No.TN 69 AE 5222 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.

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

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

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 Revenue Divisional Officer,
Thoothukudi, Thoothukudi District.

2.The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.

3.The Assistant Director of Geology and Mining,
Collector Office, Thoothukudi,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-22528[F] dated 23/11/2020)

W.P. (MD)No.16364 of 2020
20.11.2020

PE (CO)

KB(28.11.2020) 3P 5C

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