



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16714 of 2020
(Through Video Conference)

Sureshkumar

... Petitioner

Vs

- 1) The Assistant Director,
Geology and Mining Department,
Thanjavur District.
- 2) The Sub-Collector Cum
Revenue Divisional Officer,
Kumbakonam, Thanjavur District.
- 3) The Inspector of Police,
Thiruppanandhal Police Station,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to release the petitioner's vehicle of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798 from the custody of 3rd respondent's police and to hand over the above vehicle to the petitioner forthwith by considering the petitioner's representation dated 06.11.2020. within the time limit that may be stipulated this Court.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.C.Ramar, Addl. Government Pleader

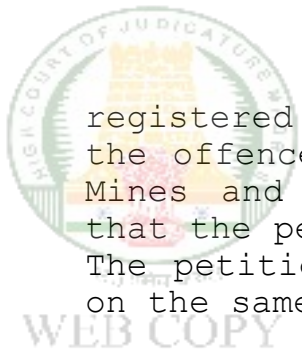
O R D E R

This writ petition has been filed for a Mandamus to direct the 2nd respondent to release the petitioner's vehicle of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798 from his custody and to hand over the above vehicle to the petitioner forthwith by considering the petitioner's representation dated 06.11.2020.

2. Heard Mr.R.Maheswaran, learned counsel appearing for the petitioner and Mr.C.Ramar, learned Additional Government Pleader 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 vehicle of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798. According to him, on 25.06.2019, the third respondent has seized the petitioner's vehicle alleging that the petitioner has transported sand illegally in his vehicle and the third respondent



registered a case against the petitioner in Crime No.117 of 2019 for the offence punishable under Section 379 IPC and section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 alleging that the petitioner has transported '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 of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798 has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized Bolero Maxi truck Plus is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle of Bolero Maxi truck Plus 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 of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798.

6. The petitioner has also given a representation on 06.11.2020 to the respondents seeking for release of the said vehicle of Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798. 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 of Bolero Maxi truck Plus 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.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 vehicles in question till the proceedings are completed;
- (iii) the petitioner shall not change the colour and scheme of the vehicles;
- (iv) the petitioner shall not use the vehicles for any illegal activities;
- (v) before releasing the vehicles, the police authority shall take photographs of the vehicles at the cost of the petitioner;
- (vi) the petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicles to the second respondent; and

<https://hcservices.ecourts.gov.in/hcservices/> and when the respondents call for the vehicles



for enquiry, the petitioner has to produce the vehicles 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 Bolero Maxi truck Plus, bearing registration No.TN 12 V 1798 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. As far as confiscation proceedings initiated against the seized vehicle are concerned, the same can go on without any interference.

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

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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,
Geology and Mining Department,
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- 2) The Sub-Collector Cum
Revenue Divisional Officer,
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- 3) The Inspector of Police,
Thiruppanandhal Police Station,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-23001[F] dated 26/11/2020)

W.P. (MD)No.16714 of 2020
24.11.2020

NA (CO)

KB(07.12.2020) 3P 5C

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