



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.16838 of 2020

Manimegalai

... Petitioner

Vs

1. The Revenue Divisional Officer,
Revenue Divisional Office,
Aranthangi, Pudukottai District.

2. The Inspector of Police,
Mimisal Police Station,
Pudukottai District.

3. The Assistant Director,
Tamil Nadu Mines and Minerals,
Pudukottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to release the petitioner's Pocline Machine Model-JCBJS 200 HD (Heavy Duty Excavator) bearing in Chasis No.1773257, pertaining to the case in Crime No.420 of 2020, on the file of the second respondent herein and return the vehicle to the petitioner based on the petitioner's representation dated 13.11.2020.

For Petitioner : Mr.S.Sathya Chidambaram

For Respondents : Ms.V.P.M.Vaishnavi
Government Advocate

ORDER

(This Petition was heard through the Video Conferencing)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's Pocline Machine Model-JCBJS 200 HD (Heavy Duty Excavator) bearing in Chasis No.1773257, pertaining to the case in Crime No.420 of 2020, on the file of the second respondent herein and return the vehicle to the petitioner based on the petitioner's representation dated 13.11.2020.



2. Ms.V.P.M.Vaishnavi 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.S.Sathya Chidambaram, learned counsel appearing for the petitioner and Ms.V.P.M.Vaishnavi, learned Government Advocate appearing for the respondents.

4. It is the case of the petitioner that she is the owner of the aforementioned vehicle. According to the petitioner, on 12.11.2020, the second respondent seized the vehicle and registered a case against the petitioner in Crime No.420 of 2020 for the offence punishable under Section 379 of I.P.C., read with Sections 21(1) and 21 (2) of the Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has transported sand without any valid license. According to the petitioner, ever since the seizure, the said vehicle is still in the custody of the second respondent Police.

5. It is also the contention of the petitioner that the vehicle has also not been produced by the second respondent Police before the concerned Jurisdictional Court. According to her, 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. In such circumstances, she has filed this Writ Petition seeking for release of the seized vehicle.

6. According to the petitioner, she gave representations to the first and second respondents on 13.11.2020 and 18.11.2020 for releasing of the seized vehicle back to her. According to her, the respondents 1 and 2 have failed to respond to the said representation. In such circumstances, she has filed this Writ Petition seeking for release of the seized vehicle.

7. Admittedly, the vehicle was seized by the second respondent on 12.11.2020 and a case has been registered by the second respondent Police against the petitioner in Crime No.420 of 2020, for the offence punishable under Section 379 of I.P.C., read with Sections 21(1) and 21 (2) of the Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has transported sand without any valid license. 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:-

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(i)the petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty 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.

9. Upon completion of the above mentioned formalities, the respondents shall release the petitioner's Pocline Machine Model-JCBJS 200 HD (Heavy Duty Excavator) bearing in Chasis No.1773257, 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/-

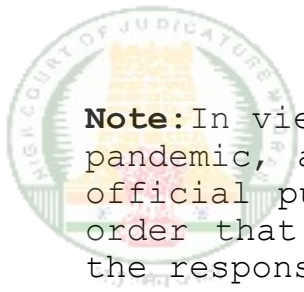
Assistant Registrar (CS-I)

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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.

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To

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2. The Inspector of Police,
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3. The Assistant Director,
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BK(CO)
CS(07.12.2020) 4P 4C