



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17155 of 2020
(Through Video Conference)

Uma

... Petitioner

Vs

- 1) The Revenue Divisional Officer,
Revenue Divisional Office,
Thoothukudi District.
- 2) The Thasildar,
Office of the Tahsildar,
Srivaikundam,
Thoothukudi District.
- 3) The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
- 4) The Assistant Director,
Tamil Nadu Mines and Minerals,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 07.11.2020 and release the petitioner's vehicle TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984 seized on 30.08.2020 and hand over to her.

For Petitioner : Mr.A.P.Muthupandian

For Respondents : Mr.C.Ramesh,
Special Government Pleader

O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to consider the petitioner's representation dated 07.11.2020 and release of the petitioner's vehicle TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984 seized on 30.08.2020 and hand over to her.



2. Heard Mr.A.P.Muthupandian, learned counsel appearing for the petitioner and Mr.C.Ramesh, learned Special 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 she is the owner of the TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984. According to her, on 30.08.2020, the second respondent and Srivaikundam Regional Deputy Tahsildar, Village Administrative Officer of Kaliyavur and Village Assistant while patrolling caught the petitioner's vehicles on the allegation that the vehicles were involved in sand theft and registered a case in Crime No.338 of 2020 under Section 379 of IPC r/w Section 21(1) of Mines and Minerals (Development and Regulation) Act. The petitioner's vehicles were seized by the third respondent Police on the same date.

5. It is the contention of the petitioner that the TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984 have also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized vehicles are now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicles 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 TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984.

6. The petitioner has also given a representation on 07.11.2020 to the respondents seeking for release of the said TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the said vehicles, 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 vehicles 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

<https://hcservices.eas.gov.in/hcservices/>

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 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 vehicle 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 first respondent; and

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

7. Upon completion of the above mentioned formalities, the respondents shall release the TATA Ashok Leyland Tipper Lorry bearing Registration Nos.TN 20 Y 2010, Engine No.WSE 301171 and TN 72 AA 7979, Engine No.MZE397984 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 vehicles in the future. As far as confiscation proceedings initiated against the seized vehicle is 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 (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sts

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,
Revenue Divisional Office,
Thoothukudi District.
- 2) The Thasildar,
Office of the Tahsildar Office,
Srivaikundam,
Thoothukudi District.
- 3) The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
- 4) The Assistant Director,
Tamil Nadu Mines and Minerals,
Thoothukudi District.

+1 CC to M/s.A.P.MUTHU PANDIAN, Advocate (SR-23278[F] dated 30/11/2020)

+1 CC to SGP (SR-23515[F] dated 01/12/2020)

Order made in
W.P. (MD) No.17155 of 2020

Dated:
30.11.2020

KM(CO)

NR (10/12/2020) 4P : 7C