



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17018 of 2020
(Through Video Conference)

Nesam

... Petitioner

Vs

- 1) The Revenue Divisional Officer,
Revenue Divisional Officer,
Sivagangai District - 630561
- 2) The Assistant Director,
Geology and Mining Department,
Sivagangai District - 630562
- 3) The Inspector of Police,
Manamadurai Police Station,
Sivagangai District-630 606

... 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 Tractor with trailer Vehicle bearing Registration No.TN 63 C 2472 from the custody of the third respondent on the basis of the petitioner's representation dated 18.11.2020 within a stipulated time may be fixed by this Court.

For Petitioner : Mr.R.Senthilkumar

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to release the petitioner's Tractor with trailer Vehicle bearing Registration No.TN 63 C 2472 from the custody of the third respondent on the basis of the petitioner's representation dated 18.11.2020 within a stipulated time may be fixed by this Court.

2. Heard Mr.R.Senthilkumar, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, 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 the Tractor with trailer vehicle bearing Registration No.TN 63 C 2472. According to him, on 02.10.2020, the de facto complainant namely Rajeshkannan, who is working as a constable in the respondent police station alleged that the petitioner's vehicle, namely, Tractor with Trailer vehicle bearing Registration No.TN 63 C 2472 was used for the transportation of $\frac{1}{2}$ unit of 'savadu' sand. The third respondent registered a case against the petitioner in Crime No.635 of 2020 for the offence punishable under Sections 379 of I.P.C. 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 Tractor with trailer vehicle bearing Registration No.TN 63 C 2472 have also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized tractor and trailer are now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the tractor and trailer 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 Tractor with trailer vehicle bearing Registration No.TN 63 C 2472.

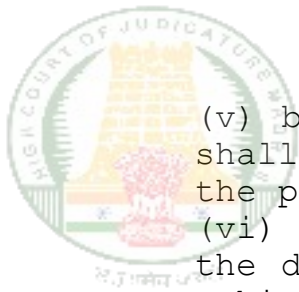
6. The petitioner has also given a representation on 18.11.2020 to the respondents seeking for release of the said Tractor with trailer vehicle bearing Registration No.TN 63 C 2472. According to the petitioner, the said representation has not been considered by the respondents till date. As rightly contended by the petitioner, if the Tractor and the trailer, 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 **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 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 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 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 Tractor with trailer vehicle bearing Registration No.TN 63 C 2472 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 vehicles 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 (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 Officer,
Sivagangai District - 630561
- 2) The Assistant Director,
Geology and Mining Department,
Sivagangai District - 630562



3) The Inspector of Police,
Manamadurai Police Station,
Sivagangai District-630 606

+1 CC to SGP (SR-23326[F] dated 30/11/2020)

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Order made in

W.P. (MD) No.17018 of 2020

NA (CO)

NR (08/12/2020) 4P : 5C