



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.17269 of 2020

WEB COPY

Arivu @ Arivazhgan

... Petitioner

Vs

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

2.The Assistant Director,
Mines and Minerals Department,
Thanjavur.

3.The Sub Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.
(Crime No.472 of 2020)

... 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 bullock cart seized by the third respondent dated 30.08.2020 on the basis of the petitioner's representation dated 15.10.2020.

For Petitioner : Mr.M.Karunanithi

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

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's bullock cart seized by the third respondent dated 30.08.2020 on the basis of the petitioner's representation dated 15.10.2020.

2. Mrs.V.P.M.Vaishnavi, learned Government Advocate 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. Heard Mr.M.Karuninithi, learned counsel for the petitioner and Ms.V.P.M.Vaishnavi, learned Government Advocate for the respondents.



4. It is the case of the petitioner that he is the owner of the bullock cart. According to him, on 30.08.2020, the third respondent Police seized the petitioner's bullock cart and registered a case against the petitioner in Crime No.472 of 2020 for the offence punishable under Section 379 of I.P.C., read with Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has transported sand in his bullock cart. According to him, ever since the seizure, the said bullock cart is still in the custody of the third respondent Police.

5. It is also the contention of the petitioner that the bullock cart has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to him, the seized bullock cart is kept idle in the Police Station premises in the open place and exposed to the vagaries of nature, resulting in the bullock cart depreciating in value.

6. According to the petitioner, he gave a representation to the respondents on 15.10.2020 for releasing of the seized bullock cart back to him. According to him, the respondents have failed to respond to the said representation. In such circumstances, he has filed this Writ Petition seeking for release of the seized bullock cart.

7. Admittedly, the bullock cart was seized by the third respondent and registered a case against the petitioner in Crime No.472 of 2020 for the offence punishable under Section 379 of I.P.C., read with Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has transported sand in his bullock cart. Admittedly, the bullock cart 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.

8. As rightly contended by the learned counsel appearing for the petitioner, the bullock cart 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 bullock cart 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.3,000/- (Rupees Three 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 use the bullock cart for any illegal activities.



(iii) before releasing the bullock cart, the police authority shall take photographs of the bullock cart at the cost of the petitioner.

(iv) As and when the respondents call for the bullock cart for enquiry, the petitioner has to produce the bullock cart in question and he shall cooperate with the enquiry to be conducted by the respondents.

9. Upon completion of the above mentioned formalities, the respondents shall release the bullock cart 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 bullock cart in the future.

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

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

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.

To

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

2. The Assistant Director,
Mines and Minerals Department,
Thanjavur.

3. The Sub Inspector of Police,
Kallaperambur Police Station,
Thanjavur District.

W.P. (MD)No.17269 of 2020

01.12.2020

pu(CO)

TR(09.12.2020) 3P 4C