



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.17447 of 2020

WEB COPY

V.Arulraj

... Petitioner

Vs

1.The District Collector,
Office of the Collector,
Thanjavur District.

2.The Inspector of Police,
Sengipatti Police Station,
Thanjavur District.

3.The Assistant Director,
Tamilnadu Mines and Minerals,
Collector Office,
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 TATA HITACHI ZAXIX 210 Excavator vehicle bearing Machine Number/Asset Serial No.OACE001764 and Chassis No.2001-6559 and Invoice No.TTP000273E seized on 23.10.2020, which is under the custody of the 2nd respondent, by considering the petitioner representation dated on 24.11.2020 within a time frame that may be stipulated by this Court.

For Petitioner : Mr.A.Senthilkumar

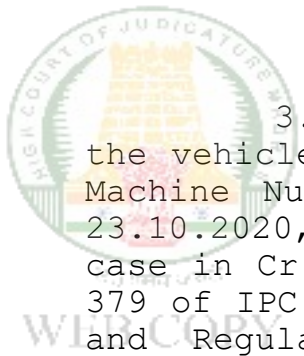
For Respondents : Ms.M.Rajeswari
Government Advocate

ORDER

(This writ petition is heard through Video Conference)

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to release the petitioner's vehicle namely TATA HITACHI ZAXIX 210 Excavator vehicle bearing Machine Number/Asset Serial No.OACE001764, forthwith.

2. Mrs.M.Rajeswari, 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. It is the case of the petitioner that he is the owner of the vehicle namely TATA HITACHI ZAXIX 210 Excavator vehicle bearing Machine Number/Asset Serial No.OACE001764. According to him, on 23.10.2020, second respondent seized the vehicle and registered a case in Cr.No.1149 of 2020 for the offence punishable under Section 379 of IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has illegally transported sand in his vehicle. According to him, ever since the seizure, the vehicle is still in the custody of the second respondent Police and till date, no confiscation proceedings have been initiated against the seized vehicle.

4. 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 him, the seized vehicle is 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.

5. According to the petitioner, he gave a representation to the respondents on 24.11.2020 for releasing of the seized vehicle 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 vehicle.

6. Admittedly, the vehicle was seized by the second respondent and a case has been registered in Cr.No.1149 of 2020 for the offence punishable under Section 379 of IPC and Section 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957, alleging that the petitioner has illegally transported sand in his vehicle. Admittedly, the vehicle 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.

7. 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 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.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 he shall cooperate with the enquiry to be conducted by the respondents.

8. Upon completion of the above mentioned formalities, the respondents shall release the vehicle namely TATA HITACHI ZAXIX 210 Excavator vehicle bearing Machine Number/Asset Serial No.OACE001764 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.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

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 District Collector,
Office of the Collector Office,
Thanjavur District.

2.The Inspector of Police,
Sengipatti Police Station,
Thanjavur District.

3.The Assistant Director,
Tamilnadu Mines and Minerals,
Collector Office,
Thanjavur District.

+1 CC to SGP (SR-24274[F] dated 07/12/2020)

W.P. (MD) No.17447 of 2020

03.12.2020

SS (CO)

NR (10/12/2020) 4P : 5C