



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17815 of 2020

(Through Video Conferencing)

WEB COPY

D.Nelson

... Petitioner

Vs

1.The Revenue Divisional Officer,
Nagercoil Revenue Division,
Nagercoil, Kanniyakumari District

2. The Assistant Director of Mines,
Kanniyakumari District, Nagercoil.

3. The Inspector of Police,
Aralvoimozhi Police Station,
Aralvoimozhi,
Kanniyakumari 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 vehicle namely Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.C.Ramesh
Special Government Pleader

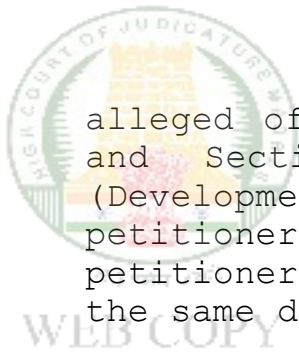
O R D E R

This writ petition has been filed for a Mandamus to direct the respondents to release the petitioner's vehicle namely Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190.

2. Heard Mr.N.Pragalathan, 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 he is the owner of the Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190. According to him, on 03.09.2020, the third respondent registered a case in Crime No.495 of 2020 for the



alleged offence punishable under Sections 279, 353 & 379 of IPC and Sections 4(1)(1A), 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 alleging that the petitioner has transported red 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 Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190 has also not been produced by the third respondent Police before the concerned Jurisdictional Court. According to the petitioner, the seized vehicle is now being kept in the open place and due to exposure of sun and rain and the vagaries of nature, the vehicle 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 Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190.

6. The petitioner has also given a representation on 25.11.2020 in person to the respondents seeking for release of the said Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190. 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 vehicle, 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 vehicle 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.25,000/- (Rupees Twenty Five 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 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 vehicle to the first respondent; and
(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.

7. Upon completion of the above mentioned formalities, the respondents shall release the Mahindra and Mahindra - Mini Tipper Lorry bearing registration No. TN 74 P 4190 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. 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)

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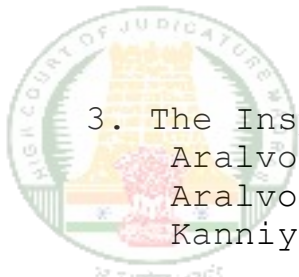
Sub Assistant Registrar(CS)

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,
Nagercoil Revenue Division,
Nagercoil, Kanniyakumari District
2. The Assistant Director of Mines,
Kanniyakumari District, Nagercoil.



3. The Inspector of Police,
Aralvoimozhi Police Station,
Aralvoimozhi,
Kanniyakumari District.

+1 CC to SGP (SR-24689[F] dated 09/12/2020)

Order made in
W.P. (MD)No.17815 of 2020

Dated:
07.12.2020

MJ(CO)
KM (18.12.2020) 4P 5C