

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.9073 of 2021

Santhosh

...Petitioner

-vs-

1. The District Revenue Officer,
Coimbatore,
Coimbatore District.

2. State rep by its
The Inspector of Police,
Gomangalam Police Station,
Coimbatore District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus, directing the first respondent to release the YAMAHA CYGNUS RAY Z BSIV bearing Registration No.TN-99-L-2617 seized by the second respondent on 20.01.2021 to the petitioner.

For Petitioner : Mr.M.N.Balakrishnan

For Respondents : Mr.V.Shanmugasundar,
Special Government Pleader

ORDER

The Writ Petition is filed for a mandamus seeking a direction to the the first respondent to release the YAMAHA CYGNUS RAY Z BSIV bearing Registration No.TN-99-L-2617 seized by the second respondent on 20.01.2021 to the petitioner.

2. Heard both sides.

3. Insofar as the Mines and Minerals (Development and Regulation) Act, 1957, is concerned, the Government has passed a Government Order in G.O.(Ms)No.298 Home (Courts-II)

Department, dated 13.06.2019, designating the Principal Judge, City Civil Court, Chennai and the Principal District Judges/ District Judges in the State of Tamil Nadu to deal with the offences in contravention of the provisions of the said Act.

4. A Hon'ble Division Bench of this Court, while dealing with a Writ Petition for release of the vehicle involved in the offence under the Mines and Minerals (Development and Regulation) Act, 1957 in W.P.Sr.No.49596 of 2020 dated 20.08.2020 has held in paragraph 6, as follows:-

"6. In the judgement referred above, the Division Bench has clearly indicated the difference between the seizure and confiscation particularly, in the light of the provisions governed under the enactment. Therefore the power of release is only available to the designated court. This is for the reason that confiscation involves a process and a release is not a matter of course being one of the option open to the court by considering the facts governing. If that is the position, this Court cannot interdict the same without going into the role assigned to the designated court and without taking note of the relevant provisions governing."

5. In this case, a vehicle has been seized for the violation of the provisions under the Essential Commodities Act, 1955, which is also a special enactment and similar procedure as that of the Mines and Minerals Act should be followed for the violations under the Essential Commodities Act, 1955. As the seized vehicle was lying in the godown, where urea bags were unauthorisedly transported/stored, the petitioner is not entitled for release of the vehicle.

6. The learned Special Government Pleader appearing for the respondents pointed out that the issue is seized of by the Hon'ble First Bench and produced an interim order passed on 16.03.2021 by the Hon'ble First Bench of this Court in W.A.No.984 of 2020. The relevant portion of the same are reproduced hereunder:

"4. The appellants say that ordinarily when a vehicle is used for the purpose of an offence under the Essential Commodities Act, 1955, such vehicle is detained for confiscation purposes. The appellants say that the usual practice is to have the vehicle valued, so that the owner of the vehicle may take back the vehicle by depositing the value thereof in Court. The value of the present vehicle is Rs.25 lakh, according to the

opinion obtained by the appellants.

5. The respondent, on the other hand, says that it is surprised that an appeal has been preferred against the usual orders that are passed in the relevant jurisdiction. The respondent claims that usually a token amount is required to be deposited for the vehicle to be taken possession of, while the goods confiscated remain pending the outcome in the proceedings. The respondent says that the rice has already been confiscated.

6. By the order impugned dated July 06, 2020, the respondent's lorry bearing registration No.KA 35 C 3184 has been permitted to be taken delivery of, upon depositing a sum of Rs.25,000/- with the appellants herein, within a period of two weeks from the date of receipt of the Writ Court's order. The other directions concern the further conduct of the matter before the criminal Court.

7. Prima facie, it does not appear right that a vehicle will be caught for smuggling essential commodities or carrying contraband and a vehicle worth Rs.25 lakh will be taken back by its owner upon a deposit of Rs.25,000/-. Indeed, such an order may have an effect of encouraging truck owners in indulging in nefarious activities.

8. The order impugned requiring the vehicle to be made over to the respondent herein will remain stayed till the disposal of the appeal. The matter will appear a week hence.

9. List on 23.03.2021."

7. In the light of the Hon'ble First Bench order, the petitioner is not entitled for the relief sought for for the present, in this Writ Petition.

8. In view of the above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

srn

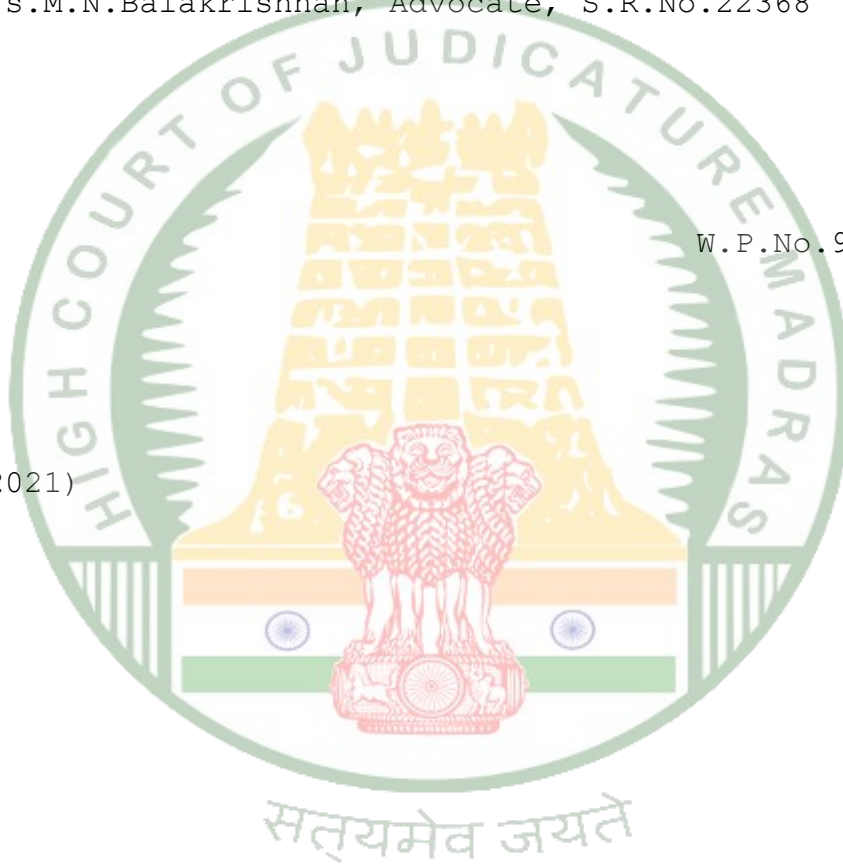
To

1. The District Revenue Officer,
Coimbatore,
Coimbatore District.
2. The Inspector of Police,
Gomangalam Police Station,
Coimbatore District.

+1cc to M/s.M.N.Balakrishnan, Advocate, S.R.No.22368

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SSN (CO)
RN (04/05/2021)



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