

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.05.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.11713 of 2021

Peter Arul Dass

.... Petitioner

Vs

1 The District Revenue officer
Coimbatore Coimbatore District.

2 State rep by its
The Inspector of police Civil Supply CID
Pollachi Coimbatore District.Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to release the ABE Passenger Auto bearing Registration No. TN-38- CM- 9921 seized by 2nd respondent on 09.04.2021 to the petitioner.

For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.M.Elumalai,

Additional Government Pleader

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 1st respondent to release the ABE Passenger Auto bearing Registration No. TN-38- CM- 9921 seized by 2nd respondent on 09.04.2021 to the petitioner.

2. The petitioner's vehicle ie., ABE Passenger Auto bearing Registration No. TN-38- CM- 9921 was seized by the second respondent on 09.04.2021 on the alleged reason that the vehicle has been involved in transporting PDS rice illegally.

3. In this regard, even though a case has been registered and it is pending, the petitioner has made a representation to release the vehicle, as the vehicle is exposed to sunlight and rain and therefore, the value of the vehicle would get diminished and on that ground, he seeks the indulgence of this Court to direct the first respondent to release the vehicle by imposing any condition.

4. Heard Mr.Camyles Gandhi, learned counsel appearing for the petitioner, who relied upon an order passed by this Court in similar circumstances in W.P.No.11176 of 2020 dated 20.08.2020. In the said order, the learned Judge has stated as follows,

" 4. It is stated that the above vehicle was seized

by the the Inspector of Police, Civil Supplies CID, Pollachi on 28.07.2020 on the allegation that the said vehicle was indulged in transporting PDS rice illegally. Therefore, this Court, at this stage, is not expressing any view on the contentions made by the petitioner against the allegations made, as it is for the Adjudicating Authority to consider and decide. However, considering the fact that the vehicle was seized as early as on 28.07.2020 and the same is kept idle thereby exposing it to sun and rain, which undoubtedly would diminish its value, this Court is of the view that the following order will protect the interest of both parties:

a) The petitioner shall deposit a sum of Rs.10,000/ (Rupees ten thousand) before the respondent within a period of two weeks from the date of receipt of a copy of this order.

b) The petitioner shall appear in person and produce all the relevant documents proving the ownership of the vehicle for verification of the authority in proof of such ownership.

(c) On receipt of payment as stated supra and also on being satisfied with the ownership of the vehicle, the respondent shall release the same forthwith.

(d) The petitioner shall not use the said vehicle for any unlawful purpose and also shall not alienate the same during the pendency of the proceedings.

(e) It is open to the respondent to initiate proceedings in accordance with law and pass appropriate orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

(f) If no such order is passed within the time stipulated therein, the amount so paid by the petitioner shall be refunded to the petitioner.

(g) This order for release of the vehicle can be availed of by the petitioner, if the vehicle is not in the custody of criminal Court. If the vehicle is in the custody of the criminal Court, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law.

The writ petition is disposed of accordingly.
No costs. "

5. Heard Mr.M.Elumalai, learned Additional Government Pleader, who would submit that, if at all the petitioner wants to get back the vehicle seized by the police, since a case has been filed and is pending, he can approach the concerned Court by invoking the provisions of the Criminal Procedure Code for return of property and therefore, he cannot approach this Court by filing a writ petition.

6. I have considered the submissions made by the learned counsel for either side and have perused the materials placed before this Court.

7. In similar circumstances, since a learned Judge of this Court has shown indulgence and the aforesaid order has been passed, I am of the view that same yardstick can be adopted in this case also, where the petitioner's vehicle would be exposed to sunlight and rain and therefore the value of the vehicle would get diminished.

8. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- a) The petitioner shall deposit a sum of Rs.10,000/- (Rupees ten thousand) before the first respondent within a period of two weeks from the date of receipt of a copy of this order.
- b) The petitioner shall appear in person and produce all the relevant documents proving the ownership of the vehicle for verification of the authority in proof of such ownership.
- c) On receipt of payment as stated supra and also on being satisfied with the ownership of the vehicle, the first respondent shall release the same forthwith.
- d) The petitioner shall not use the said vehicle for any unlawful purpose and also shall not alienate the same during the pendency of the proceedings.
- e) It is open to the first respondent to initiate proceedings in accordance with law and pass appropriate orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.
- f) If no such order is passed within the time stipulated therein, the amount so paid by the petitioner shall be refunded to the petitioner.

g) This order for release of the vehicle can be availed of by the petitioner, if the vehicle is not in the custody of criminal Court. If the vehicle is in the custody of the criminal Court, it is open to the petitioner to approach the jurisdictional Magistrate to get release of the vehicle by filing appropriate application and the same can be considered in accordance with law.

9. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The District Revenue officer
Coimbatore Coimbatore District.

2 The Inspector of police Civil Supply CID
Pollachi Coimbatore District.

+1 cc to Mr.W.Camyles Gandhi, Advocate, SR.No.27167

W.P.No.11713 of 2021

AJB (CO)
NS (17/05/2021)



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