



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1417 of 2021

WEB COPY

Muthulakshmi

... Petitioner

Vs.

1.The Deputy Superintendant of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.

3.Ukkirapandi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned confiscation order vide 24-1/Parimudhal/Thoo.Kaa.Ka/Ma.Vi.Aa.B/Rama/2020, dated 01.09.2020 on the file of the first respondent and quash the same and direct the respondent to release the petitioner's Vehicle bearing Reg.No.TN 64 M 7837.

For Petitioner: Mr.R.Venkateswaran

For R1 & R2 : Mrs.S.Srimathy

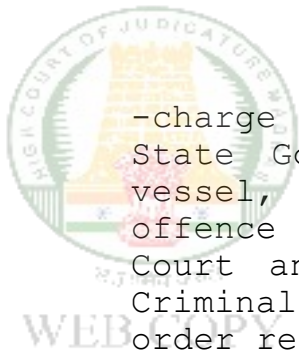
Special Government Pleader

ORDER

Heard the learned counsel on either side. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.What is under challenge in the writ petition is an order of confiscation passed under Section 14 of the Tamil Nadu Prohibition Act, 1937. Even at the outset, I posed a question to the learned counsel for the petitioner as to why I should permit him to bypass the appeal remedy available before the Sessions Court. The learned counsel responded that if he can demonstrate the violation of the principles of natural justice, then, the writ petition is maintainable. He drew my attention to Section 14(4) of the Tamilnadu Prohibition Act, 1937. The provision reads as follows:-

"14.4. Notwithstanding anything contained in sub Sections (1) to (3), the Collector or other Prohibition Officer in



-charge of the District or any other officer authorised by the State Government in that behalf, shall detain the animals, vessel, cart, or other vehicle used in the commission of an offence against this Act till the case is disposed of by the Court and notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), no interim order regarding the disposal of such property shall be passed by the Court till the case is disposed of."

3.I wanted to know from the learned Special Government Pleader as to whether the third requirement namely reasonable opportunity of being heard in the matter was provided to the petitioner herein even after verifying the records. The learned Special Government Pleader is not able to show any such hearing notice having been given to the petitioner herein.

4.In this view of the matter, the order impugned in the writ petition is quashed. The matter is remitted to the file of the jurisdictional authority for passing fresh orders. The jurisdictional authority will issue a hearing notice to the petitioner herein and thereafter, pass fresh orders on merits and in accordance with law. The respondents are directed to return the two wheeler to the petitioner herein. The petitioner through her counsel undertakes before this Court that she will not alienate the vehicle and that she will produce the vehicle as and when required. This undertaking will hold good till the confiscation proceedings are concluded. If this undertaking is breached, the petitioner will be visited with consequence of contempt of Court.

5.The Writ Petition is allowed on these terms. No costs.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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 Deputy Superintendant of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

2.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District.

W.P. (MD)No.1417 of 2021

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AC (CO)

NR (09/02/2021) 3P : 3C