



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.2726 of 2021

Adaikalam

... Petitioner

-Vs-

1.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.

2.The Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District.

3.The Assistant Director,
Department of Geology and Mines,
Virudhunagar District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle by branding name Tipper Lorry Vehicle bearing Reg.No.TN 67 BW 3782 seized by the second respondent on 04.01.2021.

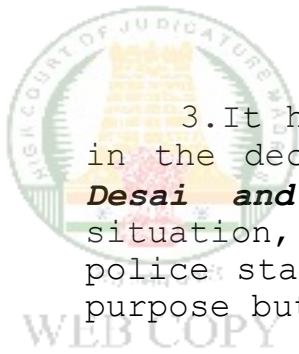
For Petitioner : Mr.A.Balaji

For Respondents : 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.The petition mentioned vehicle was seized in connection with the petition mentioned crime number. The petitioner's counsel states that till date the vehicle in question has not been produced before the jurisdictional court.



3.It has been authoritatively held by the Hon'ble Supreme Court in the decision reported in **(2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat)** that whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. That would not only serve any purpose but also result in loss of value.

4.Notwithstanding the registration of criminal cases, the vehicle in question is yet to be produced before the jurisdictional court. Therefore, the writ court is definitely possessed of the power to direct release of the vehicle. Neither the petitioner nor the vehicle is involved in any previous case of the same nature. The learned counsel for the petitioner undertakes to remit a sum of Rs.10,000/- as non refundable cost.

5.Shri.K.Veera Raghava Rao, I.A.S., Director of Employment and Training is presently working out a module for imparting training to visually impaired persons in type writing and stenography. The candidates will have to buy laptop and also type machine in braille system. The course may also involve expenditure. To enable the aforesaid Government Department to conduct the said programme so that at least some of the visually challenged persons can stand on their own feet with dignity, the Registrar (Administration) shall utilize the amount now directed to be deposited for the aforesaid purpose.

6.The petitioner's counsel states that in this case, the contraband involved is not a river sand. That apart, removal is only from the patta land. The petitioner also further claims that it was the quarry owner who permitted the petitioner to transport the sand in question. The learned Special Government Pleader would of-course dispute the genuineness of the permit.

7.I do not want to go into the controversy at this point of time. I show some indulgence in the matter of remitting cost. Recording the submission made by the learned counsel for the petitioner on instructions, I direct release of the petition mentioned vehicle subject to the following conditions :

- a) The petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the account of the Registrar (Administration), Madurai Bench of the Madras High Court, Madurai in Account No.6988563932, IFSC Code : IDIB000H040, Indian Bank, High Court Branch, Madurai. It will be a non refundable payment.
- b) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- c) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and



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the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one, sales invoice can be produced.

- d) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and shall cooperate with the enquiry to be conducted by the respondents.

8. After completion of the aforesaid formalities, the respondents shall release the petition mentioned vehicle forthwith without any delay. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future and the order passed by this Court will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose. It is made clear that what I am granting is only interim custody of the vehicle. Other proceedings may go on.

9. The Writ Petition is allowed accordingly.

Sd/-

Assistant Registrar

// 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 Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
2. The Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District.



3.The Assistant Director,
Department of Geology and Mines,
Virudhunagar District.

Copy to:

The Registrar (Administration),
Madurai Bench of the Madras High Court,
Madurai.

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-7205[F] dated 25/02/2021)

Order made in
W.P.(MD)No.2726 of 2021
23.02.2021

SV2 (CO)
SRS (02/03/2021) 4P : 6C