



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND**

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.20044 of 2021

P.M.Mathai

... Petitioner

Vs.

1.The Inspector of Police,
Cumbum North Police Station,
Theni District.

2.The Assistant Director of Geology and Mining,
Office of the Assistant Director Geology and Mining,
Theni, Theni District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to release of the petitioner's Tipper Lorry bearing Registration No.KL-12-L-7267 seized by the respondents herein concerned in Crime No.666 of 2021 on the file of the Inspector of Police, Cumbum North Police Station, Theni, to the petitioner herein with lenient condition.

For Petitioner : Mr.K.Appadurai

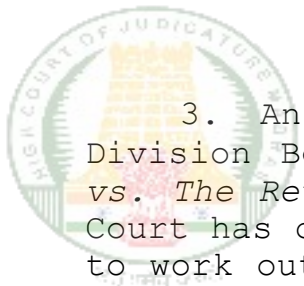
For Respondents : Mr.P.Subbaraj,
Government Advocate

ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

The writ petition has been filed by the petitioner seeking for a direction to the respondents herein to release of the petitioner's Tipper Lorry bearing Registration No.KL-12-L-7267 seized by the respondents herein in respect of the case in Crime No.666 of 2021 on the file of the Inspector of Police, Cumbum North Police Station, Theni.

2. Heard Mr.K.Appadurai, learned counsel appearing for the petitioner and Mr.P.Subbaraj, learned Government Advocate appearing for the respondents.



3. An identical issue has been considered by the Hon'ble Division Bench of this Court in W.P(MD)No.3998 of 2021 (*M.Subbaiah vs. The Revenue Divisional Officer, Virudhunagar District*) and this Court has closed the Writ Petition, giving liberty to the petitioner to work out the remedy in the manner known to law. Relevant portion of the said order is extracted hereunder:

"2. We have already held that remedy open to the petitioner is to approach the jurisdictional designated Court and not to invoke the extraordinary jurisdiction of this Court. This is also for the reason that power of confiscation is available to the designated Court. Though an FIR has been registered, the offence involved would include Section 21(1) of the Mines and Minerals Act. Such a situation has already been taken note of by way of a clarification by us indicating the procedure to be followed. Thus, the present writ petition stands closed giving liberty to the petitioner to work out his remedy in the manner known to law in tune with the order of the Division Bench. In the event of filing a petition before the jurisdictional designated Court, the said Court is expected to dispose of the same, on merits and in accordance with law, within a period of two weeks from the date of receipt of such an application. No costs."

4. In tune with the order of the Division Bench, if the petitioner files a petition before the jurisdictional designated Court, such Court shall dispose of the same on merits and in accordance with law.

5. In the light of the above order, the writ petition stands disposed of with similar observations made in W.P(MD).No.3998 of 2021. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pm

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 Judicial Magistrate, Uthamapalayam.

2. The Inspector of Police,
Cumbum North Police Station,
Theni District.

3. The Assistant Director of Geology and Mining,
Office of the Assistant Director Geology and Mining,
Theni, Theni District.

+1 CC to M/s.K.APPADURAI, Advocate (SR-34060[F] dated 11/11/2021)

+1 CC to M/s.SPL.GP (SR-33930[F] dated 10/11/2021)

W.P(MD)No.20044 of 2021

09.11.2021

_RD/NS (23.11.2021) 3P 6C