



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.23007 of 2021

Mossas Thanga Raj

... Petitioner

vs.

1.The District Revenue Officer,
District Revenue Office,
District Collector Office Campus,
Thirunelveli District.

2.The Inspector of Police,
Civil Supplies C.I.D.,
Thirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to entrust the interim custody of the petitioner vehicle Tanker Lorry bearing Registration No.TN-03-T-9199 to the petitioner, which is seized by in connection with Crime No.160 of 2020 on the file of the second respondent police by considering the petitioner's representation, dated 08.12.2021 within a time stipulated by this Court.

For Petitioner : Mr.S.Muthumalai Raja

For Respondents : Mr.N.Satheeshkumar

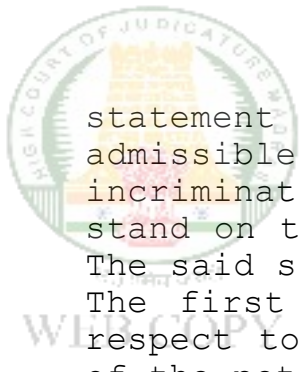
Additional Government Pleader

O R D E R

The writ petition has been filed in the nature of Writ of Mandamus, seeking a direction to the first respondent to give the custody of the vehicle of the petitioner, namely, Tanker Lorry bearing Registration No.TN-03-T-9199 to the petitioner herein.

2.The said Tanker Lorry was seized by the second respondent pursuant to which, FIR in Crime No.160 of 2020 had been registered for the offences punishable under Sections 2(e)(VI), 2(e)(VII) of Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order 1998 and Section 7(1)(a)(II) of Essential Commodities Act, 1995 on 13.09.2020. The allegation was that in the said Tanker Lorry, 9,000 litres of diesel had been unlawfully transported.

3.It is the contention of the learned counsel for the petitioner that the driver alone had transported 9,000 litres of diesel in the vehicle belonging to the petitioner, without knowledge of the petitioner. That is a fact which be established only by the petitioner herein. If the driver had given such a



statement to the second respondent, such statement cannot be made admissible in any Court of law. Every statement either incriminating or implicating a person or exonerating of a person stand on the same footing, if it is recorded by a police official. The said statement will necessarily have to be tested during trial. The first respondent will have to make necessary enquiries with respect to the transport of 9,000 litres of diesel in the vehicle of the petitioner and thereafter, he is the only authority, who can examine and decide the issue of handing over the vehicle. The Court cannot issue any mandamus as sought.

4. With the above observations, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

sjj

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 District Revenue Officer,
District Revenue Office,
District Collector Office Campus,
Thirunelveli District.

2. The Inspector of Police,
Civil Supplies C.I.D.,
Thirunelveli District.

+1 CC to M/s.SPL.GP (SR-168[F] dated 04/01/2022)

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AP (20.01.2022) 2P 4C