



W.P.(MD) No.25404 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.25404 of 2022

Marimuthu

... Petitioner

-Vs-

1.The Assistant Director of Geology and Mining,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Lalgudi,
Trichy District.

3.The Inspector of Police,
Lalgudi Police Station,
Trichy District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to release the petitioner's Ashok Leyland Lorry bearing Registration No.TN-73-E-8578 seized by the 3rd respondent on 05.08.2018, to the petitioner.

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For Petitioner : Mr.T.Lenin Kumar
For Respondents 1 & 2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For 3rd respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed, seeking a direction to the 2nd respondent to release the petitioner's Ashok Leyland Lorry bearing Registration No.TN-73-E-8578, seized by the 3rd respondent on 05.08.2018, to him.

2.Mr.G.V.Vairam Santhosh, learned Additional Government Pleader takes notice for the respondents 1 and 2 and Mr.T.Senthil Kumar, learned Additional Public Prosecutor takes notice for the 3rd respondent.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.



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4.The learned counsel for the petitioner submitted that the abovesaid petitioner's vehicle was seized by the 3rd respondent police on 05.08.2022 alleging illegal transportation of sand and in this regard, an FIR was registered by the 3rd respondent on the same day in FIR No.350/2018 under Section 379 IPC r/w Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, on the file of the Lalgudi Police Station, Tirunelveli District. Though the petitioner made a representation dated 27.09.2022 to the respondents seeking release of his vehicle, the said representation is not yet considered and therefore, the petitioner has filed this Writ Petition. According to the learned counsel, if the petitioner's vehicle is allowed to be kept in sun and rain, it will lose its value and further, the petitioner is eking out his livelihood only through the said vehicle. Thus, the learned counsel prayed for allowing this Writ Petition.

5.The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that since the petitioner's vehicle is seized under the provisions of the Mines and Minerals (Development & Regulation) Act, 1957, the petitioner ought to have moved the Special Court under the said Act

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and the present Writ Petition is not maintainable. Thus, he prayed for dismissal of the Writ Petition.

6.Heard both sides.

7.In similar cases filed for return of vehicle, which were seized for illegal transportation of minerals, a Division Bench of this Court, in ***Muthu Vs. The District Collector, Pudukkottai District, Pudukkottai, and others (W.P. (MD)No.19936 of 2017 etc., batch, dated 29.10.2018)*** issued various directions on this aspect including the dispossession of the vehicles seized in connection with the offence registered under the Mines and Minerals Act. The relevant directions are extracted hereunder:-

“(xiv) Insofar as the seized vehicles are concerned, they shall be produced before the concerned Magistrate Court by the revenue authorities at the time of filing their respective complaints.

(xv) Any application for release of vehicles etc., can only be filed before the Special Court alone.”



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8.At this juncture, the learned counsel for the petitioner submitted that the petitioner will move the Special Court at Trichy, however, now, the Special Court at Trichy is not functional and the learned Principal District Judge, Trichy, is now in-charge of the Special Court, Trichy and therefore, a direction may be issued to the said Court to dispose of the application to be filed by the petitioner within a time frame.

9.In view of the above, this Writ Petition is disposed of, directing the petitioner to file appropriate application before the Principal District Court, Trichy, seeking release of his vehicle. If such an application is filed, the learned Principal District Judge, Trichy, is directed to consider the same and pass appropriate orders on merits and in accordance with law, within a period of two weeks from the date of filing of such application. No costs.

[R.M.D., J.] & [J.S.N.P., J.]
09.11.2022

Index : Yes / No
Internet : Yes / No
sj

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R.MAHADEVAN, J.

AND

J.SATHYA NARAYANA PRASAD, J.

sj

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