WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4564 of 2023

Thangapandian ... Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

2.The Inspector of Police,
Civil Supplies C.I.D – Madurai,
Tirunelveli. ... Respondents
(In Crime No.254/2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents herein to forth with to release the Petitioner's Mahendra Maxima Van bearing Registration No.TN-76-V-8823 from their custody on the basis of the petitioner representation dated 27.02.2023.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader for R1.
Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side) for R2.

https://www.mhc.tn.gov.in/judis

WEB COPY

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Counsel appearing for the respondents.

2. The petition mentioned vehicle was seized in connection with Crime No.254 of 2021 registered on the file of the second respondent.

3. The petition mentioned vehicle is presently in the custody of the first respondent. The vehicle is said to have been used for illegally transporting PDS rice.

4. It is of course open to the respondent authority to initiate confiscation proceedings. In this case, we are concerned only with the issue of granting interim custody of the vehicle to the petitioner.

5. No purpose will be served in keeping the vehicle under the custody of the respondents. The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

https://www.mhc.tn.gov.in/judis

WEB COPY

"17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

6. Therefore, the first respondent is directed to grant interim custody of the said vehicle to the petitioner subject to the following conditions:-

a) The petitioner shall pay a sum of ***Rs.5,000/-*** *(Five Thousand Rupees Only) towards cost in the bank Account Number of the Chairman, District Legal Services Authority, Srivilliputhur (Ac No.233302000000100, IFSC Code – IOBA0002333), Indian Overseas Bank, Athikulam, Senkulam). It will be a non-refundable payment.*

b) The learned Principal District Judge, Virudhunagar is directed to withdraw the aforesaid deposited amount and spend the same for the welfare of Lalitha, the captive elephant now in the custody of the Forest Department, Virudhunagar. It can be towards the purchase of nutritious diet / medicines / Mahouts' salary or any other measure for the benefit of the elephant.

c) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed.

https://www.mhc.tn.gov.in/judis

WEB COPY

d) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner is an agreement holder, he can produce the relevant xerox copies.

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

7. Upon completion of these formalities, the respondents shall grant interim custody of the vehicle forthwith to the petitioner without any delay. If this undertaking given by the petitioner is breached, the petitioner will not be entitled to interim custody of the vehicle in future. The Writ Petition is allowed accordingly. I make it clear that allowing of this writ petition will not have any bearing on the confiscation proceedings that may be initiated by the authorities. No costs.

03.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

Issue order copy on 03.03.2023.

https://www.mhc.tn.gov.in/judis

WEB COPY

To:

1.The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

2.The Inspector of Police,
Civil Supplies C.I.D – Madurai,
Tirunelveli.

Copy to:-

The Principal District Judge,
Virudhunagar.

WEB COPY

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.4564 of 2023

03.03.2023