



WP(MD)No.18710 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 27.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**WP(MD)No.18710 of 2014
and MP(MD)No.1 of 2015**

Balamurugan

: Petitioner

Vs.

- 1.The Assistant Director of Mines and Minerals,
Collector's Office Complex,
Thoothukudi,
Thoothukudi District.
- 2.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
- 3.The Tahsildar,
Kovilpatti,
Thoothukudi District.
- 4.The Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
- 5.The Superintendent of Police,
Tuticorin.



WP(MD)No.18710 of 2014

6. The Secretary to Government,
Home Department,
State of Tamil Nadu,
Fort St. George, Chennai.

: Respondents

[R.4 *suo-motu* impleaded vide order dated 08.03.2023]

[R.5 *suo-motu* impleaded vide order dated 06.04.2023]

[R.6 *suo-motu* impleaded vide order dated 22.12.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to return back the Tractor bearing registration No.TN-49-C-2260 and Trailer bearing registration No.TN-60-Y-3830 to the petitioner, which were seized by the first respondent on 09.02.2013.

For Petitioner : Mr.S.Ramasamy

For Respondents: Mr.R.Baskaran,
Additional Advocate General
Assisted by
Mr.S.Saji Bino,
Special Government Pleader



WP(MD)No.18710 of 2014

ORDER

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According to the petitioner, he has purchased a Tractor bearing registration No.TN-49-C-2260 from one Santhavel S/o.Kamachi and Trailer bearing registration No.TN-60-Y-3830 from one Veerapandi S/o.Nagaraj, through sale deeds dated 05.12.2023. The vehicle was seized by the first respondent / Assistant Director on 09.02.2013 at 05.00 pm that rough stones were transported without any valid permit. The petitioner has enclosed the Mahazar prepared by the first respondent / Assistant Director on 09.02.2013. Now, the petitioner has filed this writ petition on 18.11.2014 for a mandamus directing the respondents to return his Tractor and Trailer, which were seized by the first respondent on 09.02.2013.

2.Learned Government Advocate, who took notice in this writ petition at the time of admission on 20.11.2014, submitted before this Court on 11.02.2015 that the vehicle, which was seized by the first respondent, was handed over to the third respondent for safe custody, however, the vehicle was found missing.



WP(MD)No.18710 of 2014

WEB COPY

3. When the writ petition was taken up for hearing in the year 2023, it was reported that the third respondent / Tahsildar has lodged a complaint before the Inspector of Police, Kovilpatti East Police Station, for the missing of vehicle and the same was registered in Crime No.1295 of 2014 u/s.379 IPC. It was further reported that the complaint was closed as undetected.

4. Learned Counsel for the petitioner submitted that the vehicle was seized by the first respondent by a Mahazar on 09.02.2013 and admittedly, the vehicle was in the custody of the respondents. Therefore, the respondents are liable to return the vehicle or to pay compensation for the vehicle.

5. Learned Additional Advocate General for the respondents submitted that the vehicle which was seized by the first respondent was handed over to the Deputy Tahsildar, Kovilpatti, namely, Thiru Rajkumar, along with the Mahazar. The said Rajkumar, in turn, handed over the same to the Night Watchman of the Taluk Office. The key of the vehicle was



entrusted with one Jeyalakshmi, Assistant of the Taluk Office. The vehicle was available in the Taluk Office till the month of June, 2013. Thereafter, it was found missing.

6.This Court considered the rival submissions made on either side and perused the available materials.

7.The Tractor bearing registration No.TN-49-C-2260 and the Trailer bearing registration No.TN-60-Y-3830 was seized by one Thiru Sambasivam, Assistant Director of Geology and Mining, Tuticorin, on 09.02.2013 that rough stones were transported in the vehicle without any valid permit. The petitioner, in the affidavit, claimed that he purchased the Tractor from one Santhavel S/o.Kamachi and Trailer from one Veerapandi S/o.Nagaraj, through sale deeds dated 05.12.2013. This date of purchase is ten months after the date of seizure of the vehicle. It is not known as to how this petitioner has purchased the vehicle, when it was seized and kept under the custody of the officials. It is not the case of the petitioner that he has already purchased the vehicle. Apart from the sale deed, the petitioner



WP(MD)No.18710 of 2014

has not relied on any other registration documents to prove his ownership.

The petitioner has not produced the bills or the registration certificate of the vehicle even in the names of his vendors. In the absence of any documents in favour of the petitioner that he is the owner of the Tractor and Trailer, which was seized by the first respondent on 09.02.2013, this Court is not inclined to grant any relief to this petitioner.

8. At the same time, the issue cannot be left aside and the conduct of the respondents has to be viewed seriously. A vehicle, which was seized by the officials of the Department of Geology and Mining, entrusted with the Revenue officials and kept in the Taluk Office, was found missing and the officials were working without even knowing the fact that the vehicle was missing. The petitioner has issued a notice through his Counsel on 07.06.2014 that his vehicle which was seized by the first respondent and kept in the Taluk Office was found missing. This notice was sent by registered post and the third respondent / Tahsildar has also received the same. Even after the receipt of this notice, the respondents have not acted upon and lodged any complaint. Thereafter, the petitioner has filed this



WP(MD)No.18710 of 2014

writ petition on 19.11.2014 and on 20.11.2014, the then Government

Advocate sent a letter to the Tahsildar, Kovilpatti, about this writ petition.

Thereafter, on 15.12.2014, the Tahsildar has lodged a complaint before the Inspector of Police, Kovilpatti East Police Station for the missing of vehicle and the same was registered on 15.12.2014. The Inspector of Police has also filed a final report on 21.08.2015 that the vehicle was not detected.

9.From the records, it appears the vehicle was handed over to Thiru Rajkumar, Deputy Tahsildar, who, in turn, entrusted the same to one Jeyalakshmi. This Jeyalakshmi, in her statement before the Inspector of Police, has admitted that she has received the key of the vehicle and has kept the same in the Office Cupboard. The investigation officer, who recorded this statement, has not taken any steps to recover the key from the concerned officer and there is no reference in the investigation about this key. However, the investigation officer has simply closed the case as undetected. As per the Mahazar, the vehicle was seized from one Vijayaraj, who, according to the petitioner, was his Driver. But, this Vijayaraj was not examined by the police during the investigation. On the directions of this



Court, a special team was constituted to find out the whereabouts of the vehicle, however, the efforts taken by them ended in vain.

10.The Tractor along with the Trailer was seized by the first respondent / Assistant Director on 09.02.2013. He simply handed over the vehicle to a Deputy Tahsildar, without taking any action as per the provisions under the Mines and Minerals (Development and Regulation) Act, 1957; the Tamil Nadu Minor Mineral Concession Rules, 1959; and the Tamil Nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011.

11.Any transportation of a mineral without a valid permit is an offence u/s.4(1) of the Mines and Minerals (Development and Regulation) Act. The vehicle, which has been seized for illegal mining or illegal transportation, has to be confiscated by filing necessary application before the concerned Magistrate as per Section 21(4-A) of the Mines and Minerals (Development and Regulation) Act. The second respondent / Revenue Divisional Officer is to recover the value of the minerals by initiating



WP(MD)No.18710 of 2014

proceedings under Rule 36A of the Tamil Nadu Minor Mineral Concession

Rules. It appears that the first respondent / Assistant Director, who seized the vehicle, has handed over the vehicle to the Tahsildar and thereafter, did not take any steps for the confiscation of the vehicle and also for placing the materials before the Revenue Divisional Officer. He has also failed to lodge a criminal complaint for the offence committed u/s.4(1) of the Mines and Minerals (Development and Regulation) Act. The offence u/s.4(1) of the Mines and Minerals (Development and Regulation) Act is a cognizable offence. However, the complaint has not been preferred for the illegal transportation of the mineral.

12.The petitioner, though claims that he is the owner of the vehicle, has kept quite till 07.06.2014. The petitioner said to have purchased the vehicle on 05.12.2013, waited for six months and issued the notice on 07.06.2014. Since the petitioner has not approached the Court with clean hands and the petitioner has not produced any valid documents, like, Registration Certificate of the vehicle either in his name or in the names of his vendors, this Court is not inclined to grant any relief to him.



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13. Accordingly, **this writ petition is dismissed.** However the District Collector, Tuticorin, shall take necessary action as against the erring officials including the Assistant Director of Geology and Mining, by forwarding a report to the Director of Geology and Mining and shall ensure that such a missing of vehicle from the Government Office is not recurring in future.

14. Before parting, it is to be noted that there is no mechanism available, as on date, with the police department as well as the revenue department in keeping the vehicles which are seized for the offence committed. The vehicles so seized are produced before the Court and the Courts, having no sufficient space, are returning the vehicles to the safe custody of the police. The fact remains that the police are also not having sufficient space. Similarly, the Taluk Offices are also not having sufficient space to keep the seized vehicles. Therefore, this Court *suo-motu* impleads the Secretary to Government, Home Department, State of Tamil Nadu, as a party to this writ petition and the learned Special Government Pleader is to



WP(MD)No.18710 of 2014

take notice on behalf of the newly impleaded respondent. The Secretary to the Government, Home Department, shall issue necessary directions to the respective District Administrations to have a dedicated separate place in each District for keeping these seized vehicles intact, with necessary protective measures like CCTV and Guard for the entire campus. It is a shame on the part of the Administration that a vehicle, which has been seized and which was in the custody of the Department, was found missing. Necessary steps should be taken to avoid the recurrence of such incidents.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

22.12.2023



WP(MD)No.18710 of 2014

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WEB COPY

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WP(MD)No.18710 of 2014

B.PUGALENDHI, J.

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WP(MD)No.18710 of 2014

22.12.2023