



WP (MD) No.16070 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.16070 of 2023

Petchimuthu

... Petitioner

Vs

1.The District Revenue Officer,
Virudhunagar- District.

2.The Inspector of Police,
CSCID Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus direct the first respondent to release the vehicle namely Ashok Leyland Lorry bearing Registration No.TN 30 R 4545.

For petitioner : Mr.K.P.Narayanakumar

For Respondents : Ms.D.Farjuna Ghoushia

Special Government Pleader



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ORDER

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The petitioner's vehicle bearing Registration No.TN 30 R 4545 was seized by the 2nd respondent Police on 25.04.2023 and a case was registered in Crime No.57 of 2023 for the offence under Section 6(4) of the Tamil Nadu Scheduled Commodities (RDCS) Order, 1962 and Section 7(1)(a)(ii) of the Essential Commodities Act, 1955.

2.The petitioner has filed this writ petition for a writ of mandamus to release the vehicle bearing registration No.TN 30 R 4545. The learned Counsel appearing for the petitioner by referring the orders of this Court in W.P.No.12462 of 2022 submits that in similar issue, this Court granted custody of the vehicle, which involved in similar offences.

3.This Court, by following the decision of the Hon'ble Supreme Court in ***Sunderbhari Ambalal Desai and others Vs State of Gujarat***, reported in ***(2002) 10 SCC 283***, has allowed the writ petition with certain directions.



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4. Section 6(A) of the Essential Commodities Act enables the officers responsible to confiscate any commodity so seized and vehicle which has been used for transportation. However, the same has to be proceeded without any unreasonable delay by the District Collector of the District. It appears that the vehicle has been seized on 25.04.2023 and no notice for confiscation has been issued.

5. In ***Sunderbhai Ambalal Desai and others Vs State of Gujarat***, reported in **(2002) 10 SCC 283**, the Hon'ble Supreme Court has held as follows:

“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. In view of the decision of the Hon'ble Supreme Court and the order of this Court in W.P.No.12462 of 2022, this Writ Petition is disposed of with the following directions:



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(i) The petitioner shall produce a surety for a sum of Rs.25,000/- before the 2nd respondent ;

(ii) The petitioner shall file an undertaking affidavit that he would produce the vehicle as and when required by the respondents for enquiry;

(iii) The petitioner shall not alienate or encumber the vehicle till the proceedings are completed and shall co-operate for the proceedings under Section 6(A) of the Essential Commodities Act. No costs.

14.07.2023

ssb

To

1.The District Revenue Officer,
Virudhunagar- District.

2.The Inspector of Police,
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Virudhunagar District.



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B.PUGALENDHI, J.

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