



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

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CORAM:

THE HON'BLE DR.JUSTICE ANITA SUMANTH

WP.No.17469 of 2024

R.Anand

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Udhagamandalam,
Nilgiris.

2.The Tahsildar,
Kothagiri,
Nilgiris.

3.The Village Administrative Officer,
Kothagiri, Nilgiris.

4.The Village Assistant,
Kothagiri, Nilgiris.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Mandamus directing the respondents 2 to 4 to return the machine namely Sany Excavator Sy26U to the petitioner as per his representation dated 25.04.2024 within stipulated time fixed by this Hon'ble Court.

For Petitioner: Mr.E.Vijayakumar

For Respondents: Mr.U.Baranidharan
Additional Government Pleader



WP.No.17469

ORDER

WEB COPY

The writ petitioner is a resident in Kothagiri, Nilgiris. He is the owner of a Sany Exavator SY26U machine (machine/excavator) and claims to be using it for agricultural work for a period of 10 years. He has entered into an agreement with an individual for use of that machine in S.F.No.1112/7, Kothagiri Village, Kothagiri Taluk.

2. According to him, he has been using the machine only for the purpose of removing bushes and other plants in the land and generally for streamlining that property. He affirms that he has not been using the machine for any other activity, such as building construction, road work or general work. While so, on 10.04.2024, R3 and R4 that is, the Village Administrative Officer and Village Assistant, Kothagiri are alleged to have entered the property in question and demanded a bribe which he refused. On that account, he states that R3 and R4 seized the machine and handed over custody of the same to the Tahsildar/R2.

3. Mr. U. Baranidharan, learned Additional Government Pleader who has accepted notice for all the respondents has filed a compilation including inter alia, communication dated 10.04.2024 wherein R3 has written to the Revenue Divisional Officer about the incident and the seizure of the excavator.

4. From 10.04.2024, the machine is admittedly in the possession of the respondents. What the respondents intend to do with the excavator is a mystery and



WP.No.17469

to hold a property belonging to a private citizen for a period of more than three months without even issuing notice to him is unacceptable and contrary to law. If at all the respondents believed that the machine was being misused and there was some justification in the seizure, show cause notice ought to have been issued by the respondents to petitioner. No explanation has been placed before me to justify the seizure and this would lend support to the fact that the seizure and subsequent retention of the excavator by the authority is totally contrary to law.

5. In fact, the petitioner has made a representation to the District Collector/R1 as early as on 25.04.2024 received by R1 on 26.04.2024 setting out his grievances in regard to the seizure. This lack of response has forced to the petitioner to institute the present writ petition on 24.06.2024 after waiting for more than two months after the seizure.

6. The petitioner has early approached this Court in WP.No.25913 of 2022 seeking a mandamus directing R1 to R7 not to interfere in usage of the petitioner's excavator for agricultural purposes and not to seize or confiscate the same when it has been used for agricultural purpose.

7. That writ petition came to be disposed on 27.09.2022, recording the undertaking of the learned then Additional Government Pleader and a direction issued by the District Collector on 02.03.2021 to the Joint Director, Horticulture in Nilgiris that whenever application is received from the petitioner, it shall be verified



after conducting a spot inspection and disposed either granting permission or rejecting it and after verifying whether the purpose of the use was for agricultural or any other activities. The Court made it clear that the application must be disposed within seven (7) days of receipt thereof.

8.The petitioner has filed a compilation enclosing, at pages 14 and 18 thereof, two applications dated 07.08.2023 and 23.10.2023 seeking permission to use the machine. No permission has been issued and neither have the applications been rejected. The explanation put forth by Mr.Baranidharan is that those applications were submitted by third parties, one Bojan and one Sanjai Raman and there is nothing to indicate that those applications were connected in any way to the petitioner's excavator.

9.That may be so. However, the explanation tender by the petitioner is that applications are being accepted only from the land owners and not from the petitioner itself and that Bojan and Sanjai Raman were land owners in whose properties the excavator was to be used. This explanation appeals, particularly since the trajectory of events does indicate some unfairness in dealing with the petitioner.

10.The order of this Court dated 27.09.2022 has balanced the interests of both parties permitting the petitioner to use the excavator for agricultural activities and directing restraint only where the activities were found not to relate to agriculture. Hence for the authorities to have seized the vehicle on 10.04.2024 and retained the



same for 3 months without even issuing a notice to the petitioner alleging misuse does, prima facie, indicate prejudice against the petitioner.

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11.Learned counsel for the petitioner draws attention to a petition filed by the petitioner before the Director of Vigilance and Anti Corruption as against R2 and R3. Ultimately the petition came to be closed on 06.12.2022 and the authority in the Vigilance and Anti Corruption Department states that a scrutiny of the complaint did not disclose any specific information of cognizable offence under the Prevention of Corruption Act.

12.According to the petitioner, it is this complaint, that has been the reason for the harassment meted out by the authorities. While this Court has nothing to say about the complaint per se as it has been closed, this event does lend credence to the petitioner's complaint of harassment by R2 and R3.

13.For the aforesaid reasons, this writ petition is allowed with costs of Rs.5,000/- (Rupees Five Thousand only) payable by R2 to R4 jointly to the petitioner within a week from date of receipt of this order. There is a direction to R2 to R4 to return the excavator to the petitioner forthwith. In light of the proceedings of the District Collector, Nilgiris District under Na.Ka.D6.No.813/2021, dated 06.12.2021, the petitioner or the property owner where the machine is to be utilised will make an application for use of the machine. If the application is made by the property owner, it shall contain particulars of the petitioner's machine in the interests of clarity. The



WP.No.17469 -J- - - -

request will be processed within a period of three (3) days from date of receipt of the request from the petitioner/property owner. No costs.

WEB COPY

25.07.2024

vs

Index:Yes/No

Speaking order

Neutral citation : Yes

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