



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2025

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THE HONOURABLE MRS JUSTICE S.SRIMATHY

W.P.CrI.(MD) No.2727 of 2025

and W.M.P(MD) No. 651 of 2025

Shriram Transport Finance Company Limited,
represented by its Assistant Credit Manager,
P.Vellaisamy, Plot No.49,
SRS Complex First Floor,
MGM Nagar, Avaniapuram,
Madurai – 625 012.

Petitioner(s)

Vs

- 1.The Superintendent of Police,
Madurai District.
- 2.The Inspector of Police,
Othakadai Police Station,
Othakadai,
Madurai District.
- 3.The Assistant Director of Drug Control,
Office of the Assistant Director of Drug Control,
Madurai Zone,
Prampumalaikaradu,
Melakuyilkudi,
Nagamalai Pudukottai Post.
- 4.T.Muthaiah
- 5.K.Jeyapal

Respondent(s)



For Petitioner(s): Mr.M.Kannan

For Respondent(s): Mr.A.S.Abul Kalaam Azad
Government Advocate (CrL.side) for R1 and R2

Mr.M.Muthumanikkam for R3

Prayer:

This petition is filed for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order, dated Nil passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to handover the Ashok Leyland A L Boss 1112 LE model Lorry bearing Registration No.TN 32 AJ 4127 Chasis Number: MB1AUPAC1GPYU8120 and Engine Number: GYPZ128341 to the petitioner for re-possession in accordance with Loan cum Hypothecation Agreement and Arbitration Award in Arbitration Case No.TNR 23/2022.

ORDER

This petition has been filed challenging the impugned order, dated Nil, passed by the second respondent and consequently seeking a direction to the respondents to hand over the Ashok Leyland A.L. Boss 1112 LE model lorry bearing Registration No. TN 32 AJ 4127, Chassis No. MB1AUPAC1GPYU8120 and Engine No. GYPZ128341 to the petitioner for re-possession, in accordance with the Loan-cum-Hypothecation Agreement and the Arbitration Award passed in Arbitration Case No. TNR 23/2022.



2. Admittedly, respondents 4 and 5 had borrowed money from the petitioner and purchased the aforesaid lorry. However, the said lorry was seized under the provisions of the NDPS Act. Consequently, respondents 1 to 3 have taken control of the vehicle and initiated confiscation proceedings. It is now stated that the respondents have also initiated auction proceedings in respect of the said vehicle.

3. The contention of the petitioner is that since the petitioner / finance company holds a valid hypothecation agreement, the first charge over the vehicle vests with the petitioner. Even under Section 63 of the NDPS Act, if any person claims a right over the seized property and furnishes proof in support of such claim, notice is required to be issued to such person before proceeding with confiscation or auction. However, in the present case, no such notice was issued to the petitioner.

4. The issue arises for consideration is whether the Drug Disposal Committee has the authority to decide such a issue. The **Hon'ble Supreme Court in *Denash Vs. State of Tamil Nadu***, reported in **2025 SCC Online SC 2276**, has held as under:

20. Section 63 sets out the procedural mechanism to be followed by the Special Court before passing any order relating to



seized property. It mandates that no final order of confiscation of the conveyance can be passed without affording an opportunity of hearing to the person claiming ownership and without considering the evidence adduced in support of such claim. Importantly, the statute expressly vests this adjudicatory power in the Special Court, thereby excluding any administrative or executive authority, such as the Drug Disposal Committee from unilaterally determining the fate of a seized vehicle where ownership is claimed and fortified by a lawful defence in terms of Section 63 of the NDPS Act.

21. Thus, a conjoint and holistic reading of Section 63(3) and 63, makes it abundantly clear that the power to determine whether or not a seized conveyance is liable to confiscation vests in the Special Court constituted under the NDPS Act not in any administrative or executive authority such as the Drug Disposal Committee. The statute stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty-bound to hear such claim before deciding the fate of the seized vehicle including confiscation.

22. The legislative scheme thus contemplates that confiscation, being a measure resulting in deprivation of property, must conform to the basic tenets of natural justice and must be preceded with a prior hearing which would ensure that an innocent owner or a bona fide claimant, whose vehicle or container might have been misused without his knowledge or connivance, is not subjected to undue hardship and unjust deprivation of his property.



The above judgement has categorically held that the Drug Disposal Committee has no adjudicatory power and that it is only the jurisdictional trial Court which is empowered to consider claims relating to seized properties.

5. In view of the above, this Court is of the considered opinion that when the petitioner has a right over the vehicle, the petitioner is entitled to be heard. Either the respondent police or the trial Court ought to have issued notice to the petitioner / finance company, especially after verification of the Registration Certificate. Admittedly, the mandatory procedure contemplated under Section 63 of the NDPS Act has not been followed.

6. Therefore, this Court holds that the petitioner is entitled to seek appropriate relief under Section 63 of the NDPS Act. Accordingly, there shall be an interim stay of the auction proceedings in respect of the petitioner's vehicle. The petitioner is directed to file an appropriate application before the jurisdictional trial Court under Section 63 of the NDPS Act. Upon such filing, the trial Court shall consider the same in accordance with law and pass appropriate orders expeditiously. Until such orders are passed by the trial Court under Section 63 of the NDPS Act, the



interim stay granted by this Court shall remain in force.

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7. With the above directions, this Writ Petition is allowed.

Consequently, connected Miscellaneous Petition is closed. No costs.

19.12.2025

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To

- 1.The Superintendent of Police,
Madurai District.
- 2.The Inspector of Police,
Othakadai Police Station,
Othakadai,
Madurai District.
- 3.The Assistant Director of Drug Control,
Office of the Assistant Director of Drug Control,
Madurai Zone,
Prampumalaikaradu,
Melakuyilkudi,
Nagamalai Pudukottai Post,
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

S.SRIMATHY.J.

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