(2014) 11 MAD CK 0457

Madras High Court (Madurai Bench)

Case No: Writ Petition (MD) Nos. 17147 and 17161 of 2014 and M.P. (MD) No. 1 of 2014 in W.P. (MD) Nos. 17147 and 17161 of 2014

Sargunam		APPELLANT
	Vs	
The Revenue Divisional Officer		RESPONDENT

Date of Decision: Nov. 17, 2014

Hon'ble Judges: T. Raja, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

T. Raja, J.
These two writ petitions have been filed for the same relief. W.P.(MD)No. 17147 of 2014 has been filed by one Mr.Sargunam, seeking a direction to the respondents to release his tractor with trailer, bearing Regn.No. TN-48 U 0828. W.P.(MD)No. 17161 of 204 has been filed by one Rajkumar, seeking a similar direction to the respondents to release his tractor with trailer, bearing Regn.No. TN-69 AT 0392. Both the vehicles are said to have been seized by the respondents on the ground that they have been used for transporting red sand, illegally, without valid permits.

2. According to the petitioners, being the owners of their respective vehicles, they have been using them for agricultural purposes, in nearby villages. While so, on 06.10.2014, one Saravanaperumal, has engaged their vehicles to carry excess soil from his agricultural lands, covered in Survey No. 507/4, having an extent of 2-1/2 acres, situated at Paramankurichi Village. While the petitioners'' vehicles were carrying excess soil from the said land to another land situated in the same village, the vehicles were intercepted by the 3rd respondent, the Revenue Inspector. Even after verification of the documents, showing that the tractors, along with trailers, are being used only for carrying excess soil for agricultural purposes, the 3rd respondent failed to appreciate the explanation given by the petitioners that they have been using the tractors and trailers only for domestic and

agricultural purposes and seized the vehicles as if they were used to transport red sand, illegally and handed them over to the 2nd respondent. The second respondent, the Tahsildar, Tiruchendur, also without even appreciating the explanation presented by the petitioners, initiated proceedings in No. A1/17867/2014, dated 08.10.2014 and entrusted the custody of the vehicle to the 1st respondent on 09.11.2014. Thereafter, the petitioners appeared before the 1st respondent, the Revenue Divisional Officer, Tiruchendur and requested him to release their vehicles. But, none of the explanation offered was considered, as a result, the petitioners have come to this Court.

3. On notice, the 2nd respondent has filed separate counter affidavits in both the writ petitions.

4. The relief sought for by the petitioners has to be answered in their favour on the basis of Rule 17 of the Tamil Nadu Minor Minerals Concession Rules, 1959, which reads as under:

"17. Quarrying by the owner.-- A registered holder may quarry free of charge any minor mineral on a small scale for his own use for a specific bonafide domestic or agricultural purpose, provided that he has no intention of continuing quarrying operations indefinitely and provided further that the land is not in any way rendered less fit for cultivation than before."

5. A mere reading of Rule 17 of the Rules clearly shows that a registered holder may quarry free of charge any minor mineral on a small scale for his own use, for a specific bonafide domestic or agricultural purpose, provided he has no intention of continuing quarrying operation, indefinitely.

6. In the present case, the explanation offered by the petitioners clearly shows that the tractors and tailers in question, belonging to the petitioners, were carrying excess soil to the own lands of hirer of the vehicles, namely Saravanaperumal. Therefore, it is not known as to why the respondents have not considered the genuine explanation offered by the petitioners. As none of the respondents have considered the case of the petitioners, this Court, finding no justification in the counter affidavits, is inclined to order release of the vehicles in question.

7. Accordingly, the first respondent is hereby directed to release the vehicles in question to the petitioners, forthwith, upon confirming their ownership to the vehicles, on production of a copy of this order. Both the writ petitions are disposed of. No costs. Connected miscellaneous petitions are closed.