
(2014) 11 MAD CK 0516

In the Madras High Court

Case No : Writ Petition No. 29390 of 2014 and M.P. Nos. 1 to 4 of 2014

Srinivasa Suppliers

APPELLANT

Vs

The Revenue Divisional Officer

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0516

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T.S. Sivagnanam, J.—With the consent of both sides, this Writ Petition is taken up for final hearing at the admission stage itself.

2. The petitioner has sought for a writ of certiorari, to quash the proceedings of the second respondent dated 18.09.2014, which is a seizure mahazar, pursuant to which, the vehicle bearing Reg.No.TN18C 5110 has been detained by the second respondent on the ground that it was transporting sand, without proper documents.

3. The petitioner would submit that it is an Agency, doing the business of second sale of river sand and the nature of such business is that the supplier of such river sand is from the source stocks sand at a located place outside the mining area and such procurement of sand is based on the supply order placed by the customers. The petitioner would further submit that they would store the sand in their immovable property in T.S. No.252/1A part, Plot No.C-1, (No.10/C-1) Padikuppam Village, Ambattur Taluk, Thiruvallur District and they are owning several vehicles, in which, they transported the sand and the petitioner has been earning a meager amount for transport at the rate of Rs.200/- per trip after defraying fuel costs, etc.

4. According to the petitioner, in spite of the petitioner being in possession of all documents issued by the licensee, who has been authorized to excavate the river sand, the respondents are harassing the petitioner, by demanding bribe on

several occasions. In one such occasion, when the petitioner refused to pay bribe, the vehicle was detained. Therefore, the petitioner is left with no other option, except to approach this Court, by way of this writ petition, challenging the seizure mahazar.

5. The learned counsel for the petitioner invited the attention of this Court to the following documents produced by way of typed set along with this writ petition: Certificate of Registration issued under the Provisions of TNGST Act, goods carriage permit issued by the Transport Department in respect of the vehicle bearing Reg.No.TN20 BY 1783, receipt for payment of Rs.170/- dated 10.10.2013, copy of the Registration Certificate of the Vehicles bearing Reg.Nos.TN02T 4630 and TN18C 5110, goods carriage permit of the vehicle in question, copy of the Registration Certificate of Vehicle bearing Reg.No.TN20BY 1783 and its Goods Carriage Permit. It is submitted by the learned counsel for the petitioner that one P. Karuppaiah is a licensee, who has been granted licence to quarry sand and the sale slips issued by the licensee at the stock yard and the despatch slips have been produced, in respect of the vehicles bearing Regn.Nos.TN46F 1490, TN73D 3785, TN02C 2599, TN21AF 4657. Based on these documents, the seizure mahazar should be quashed and the respondents should be restrained from in any manner interfering with the business activities of the petitioner.

6. The learned Special Government Pleader pointed out that the copies of the despatch slips and the sale slips issued by the licensee at the stockyard did not contain the Registration Number of the vehicle detained, namely, TN18C 5110. Further, it is submitted that as per Rule 36(b) of the Tamil Nadu Minor and Minerals Concession Rules 1959 (hereinafter shortly referred to as "Act"), a person, who transported the mineral in any manner, shall be in possession of the individual despatch slips for the quantity of minerals available in the vehicle at all the times of transportation of the mineral by the vehicles. Therefore, it is submitted that if the petitioner produces all these documents, then the respondents can consider the same.

7. Heard both sides and perused the materials placed on record.

8. As pointed out earlier, the impugned proceedings is a seizure mahazar and therefore, no writ of certiorari can be issued to quash the seizure mahazar. As the authority detained the vehicle for the reason that the vehicle bearing Reg.No.TN18C 5110 was carrying sand and the lorry driver was not in possession of permit or receipt, the authority prima facie came to the conclusion that the sand was illegally transported without proper documents. The documents, which were referred to by the petitioner, are regarding the ownership of three vehicles and the goods carriage permit granted is in respect of those three vehicles. Insofar as the sale slips issued by the licensee by name P. Karuppaiah at the stock yard are concerned, the same are issued in August and September 2014 to different vehicles and not the vehicle bearing Reg.No.TN18C 5110. According to the petitioner, they purchased the sand from the licensee and they stocked it in

the land at Ambattur Taluk, so as to supply it to their customers. If the petitioner has purchased the sand from the licensee, then the petitioner should have sufficient proof to show by way of purchase document or sale receipt or tax invoice etc. That apart, the sale receipt issued in favour of the petitioner should contain the vehicle number and source of purchase, whereas, the copy of the sale slips issued by licensee does not contain the present vehicle number. Therefore, those documents will not be of any assistance to the petitioner. In terms of Rule 36(b), the vehicle is bound to carry necessary documents including despatch slip and other documents to prove that they are transporting the mineral which was lifted by a person, who was authorized to do so. In the absence of such documents, the question of quashing the seizure mahazar does not arise herein.

9. Accordingly, the writ petition fails and the same is dismissed. However, it is open to the petitioner to appear before the respondents and produce all the records to show that the sand was transported lawfully after purchasing the same from the licensee of PWD and if such documents are produced by the petitioner, the respondents shall consider the same on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.