

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN
: PRESENT :
THE HON'BLE SRI JUSTICE: **NOOTY RAMAMOHANA RAO**

WRIT PETITION No. 19665 of 2007

Between:
M.Lingam, S/o. Pothanna.

..... Petitioner

AND

1. The Commissioner, Prohibition and Excise, Nampally, Hyderabad.
 2. The Deputy Commissioner, Prohibition and Excise, Nizamabad Division, Nizamabad.
 3. The Station House Officer, Prohibition and Excise, Bodhan, Nizamabad District.
- Respondents

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus or any other appropriate Writ order or direction declaring the action of the respondents No. 1 in confiscating the AUTO bearing No. AP1V 2089 of the petitioner through orders in Cr. No. 2709/2006/CPE/D4 dated 30-3-2007 confirming the orders of the respondent No.2 orders No. Cr. No. B3/2209/2005 dated 14-12-2005 as arbitrary, illegal null and void and also violative of Articles 14, 19, 21 and 300-A of the Constitution of India, Consequently direct the respondents to release the AUTO bearing No. AP 1V 2089 in favour of the petitioner.

The Petition coming on for admission upon perusing the petition and the affidavit filed herein and upon hearing the arguments of Sri C.Hari Preeth, Advocate for the Petitioner and of G.P. for Prohibition & Excise for the Respondents.

The Court made the following **ORDER**:

“ It is represented by the learned Government Pleader for Excise that the question as to whether an innocent owner of a motor vehicle or its driver is also liable to be proceeded against for an excise offence committed by the inmates of a transport vehicle was engaging the attention of the Full Bench in Writ Petition No. 20296 of 2000. Therefore, let this matter also be listed along with the batch of the cases before the Full Bench.

But, however, in the meantime, the vehicle in question bearing registration No. AP 1 V 2089 be released by the respondents subject to the writ petitioner depositing a sum of Rs. 25,000/- (Rupees Twenty five thousand only) in a fixed deposit with any of the nationalized banks at Nizamabad in the name of the Deputy Commissioner, Prohibition and Excise, Nizamabad Division, Nizamabad, within a period of 15 days, which shall be renewed from time to time. The Deputy Commissioner, Prohibition and Excise, Nizamabad Division, Nizamabad will extend the necessary cooperation by affixing his signatures and office seal on such forms as are required by the bank for opening such a fixed deposit.

..2..

The issue as to whether the F.D.R. shall be returned to the petitioner or shall be confiscated in lieu of the motor vehicle will be decided when the principal controversy is resolved by this Court.

In the meantime, the petitioner shall not alienate or transfer in any manner the motor vehicle bearing Registration No. AP 1V 2089.

Post this matter before the Full Bench along with the rest of the cases.”

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The Commissioner, Prohibition and Excise, Nampally, Hyderabad.

- 2. The Deputy Commissioner, Prohibition and Excise, Nizamabad Division, Nizamabad.
- 3. The Station House Officer, Prohibition and Excise, Bodhan, Nizamabad District.
- 4. M.Lingam, S/o. Pothanna, R/o. Degaon Village, Bhainsa Mandal, Adilabad District.
- 5. The Section Officer, Writ Posting Filing Section, High Court of A.P., Hyderabad.
- 6. Two CCs to G.P. for Prohibition and Excise, High Court of A.P.Hyd(OUT)
- 7. One CC to Sri C.Hari Preeth, Advocate(OPUC)
- 8. One spare copy.

SAH

HIGH COURT

NRRJ

DATED: 24-09-2007

NOTE: POST THIS MATTER BEFORE THE
FULL BENCH ALONG WITH THE REST
OF THE CASES

ORDER

DIRECTION

DRAFTED BY: SAH
APPROVED BY:
DRAFTED ON: 26-09-2007

HIGH COURT

NRRJ

DATED: 24-09-2007

NOTE: POST THIS MATTER BEFORE THE
FULL BENCH ALONG WITH THE REST
OF THE CASES

ORDER

WP.NO. 19665 OF 2007

DIRECTION