

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.31235 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the third respondent in seizing the vehicle of the petitioner as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies(Andhra Pradesh) representing the respondents 1 to 3.

3. The petitioner claims that he is the owner of Mini Van bearing No.AP 37 TC 6660. The vehicle of the petitioner was intercepted on 24.08.2016 at Jangareddygudem, West Godavari District alleging that the petitioner was transporting PDS rice. It is the case of the petitioner that he was transporting the paddy and rice under valid way bills. Whether the paddy and rice in question belongs to PDS or not is purely a disputed question of fact, which cannot be decided by this Court while exercising the jurisdiction under article 226 of the Constitution of India. A perusal of the record reveals that the petitioner herein submitted a representation to the second respondent with a prayer to release the vehicle. For one reason or other, the second respondent has not disposed of the representation of the petitioner.

4. At the time of arguments, the only relief sought by the petitioner is to direct the second respondent to release the vehicle pending disposal of the 6-A proceedings. The learned Assistant

Government Pleader submitted that the vehicle may be released on furnishing a bank guarantee to the value of the vehicle. If the vehicle is kept under the custody of the second respondent, it may cause financial loss and untold hardship to the petitioner. If the second respondent is directed to release the vehicle unconditionally, it may not be possible for the respondents to take appropriate action against the petitioner in the event of the vehicle being liable for confiscation or fine.

5. Having regard to the facts and circumstances of the case, the second respondent is hereby directed to release the vehicle (Mini Van) bearing No.AP 37 TC 6660 in favour of the petitioner on his furnishing a bank guarantee for an amount of Rs.2,00,000/- (Rupees two lakhs only). The petitioner is further directed to file an undertaking before the second respondent that he will not alienate the vehicle or create any third party interest over it and will not alter its nature, pending disposal of 6-A proceedings before the second respondent.

6. With the above direction, the writ petition is disposed of. No order as to costs. As a sequel, the miscellaneous petitions, pending if any in this writ petition, shall stand closed.

T.SUNIL CHOWDARY, J

September 16, 2016.
Pns