

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4614 OF 2017

Milton Jacin Murzello

..Petitioner.

Vs

The State of Maharashtra & Ors..Respondents.

Ms. A.P. Madhuri for the Petitioner.

Mr. Manish Pable, AGP for Respondent Nos. 1 to 3.

**CORAM : A.S. GADKARI &
C.V. BHADANG, J.**

**DATE : 19th May, 2017.
(VACATION JUDGE)**

P.C.

1) Rule, made returnable forthwith. The learned AGP waives service for the respondents. Heard finally by consent of parties, as the issue is covered by several orders passed by this Court.

2) As per order dated 3rd March, 2004 in Writ Petition No. 1762 of 2009 a direction was given to phase out eight years old transport vehicles from the City of Mumbai, unless the same are converted to run either on CNG or LPG. There was also a direction to seize/impound the vehicles by the Regional Transport Office or the Traffic Police, if any such vehicle is found plying within the limits of City of Mumbai, in breach of the aforesaid directions.

3) The petitioner is a registered owner of a passenger vehicle bearing Registration No. MH-04-G-6600 which is registered in the year 2008 with RTO Thane. On 12/3/2017 the vehicle had entered the City of Mumbai and was accordingly seized by the RTO Mumbai (West). The petitioner is seeking the release of the said vehicle. It is contended that on the day of seizure the vehicle was about eight years and six months old, from the date of its registration. It is contended out of inadvertence the driver of the vehicle entered the City of Mumbai. On behalf of the petitioners reliance is placed on the decision of this Court in a batch of petitions being Writ Petition No. 14211 of 2016 and others dated 25th January, 2017 in order to submit that in similar cases the vehicles have been released subject to undertaking given by the owners not to ply the vehicles in the City of Mumbai and subject to deposit of certain amount. The petitioner is seeking an order in terms thereof.

4) We have perused the aforesaid judgment dated 25th January, 2017. The learned AGP does not dispute that the present petition would be covered by the said decision. The learned Counsel for the petitioner submitted that the petitioner is willing to give an undertaking as provided in various orders passed by this Court. In such circumstances, the petition is disposed of in the following terms.

ORDER:

- (i) The vehicle bearing Registration No. MH-04-G-6600 which is subject matter of this petition

shall be released to the petitioner subject to the petitioner filing an undertaking before this Court to the effect that the vehicle shall be taken out of the limits of City of Mumbai and shall not be plied within the said limits and subject to the further condition that the petitioner deposits a sum of Rs.20,000/-(Rupees Twenty Thousand) with the concerned Regional Transport Office;

(ii) On deposit of the amount of Rs.20,000/- and on the petitioner producing a true copy of the undertaking filed in this Court, the vehicle shall be released in favour of the petitioner, on production of an authenticated copy of this order;

(iii) Rule is made absolute in the aforesaid terms.

(iv) All concerned to act on an authenticated copy of this order.

(C.V. BHADANG,J)

(A.S.GADKARI,J)