

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.38774 of 2017

ORDER:

This Writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

'...to issue an order, writ or direction more particularly in the nature of Writ of Mandamus declaring the action of respondents in seizing the Tractor No. AP 30W 6074 & Trailer No. AP 30TE 6080, of the petitioner without following any procedure under statutes as illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequently direct the respondents to release the vehicle from their custody and pass such other order or orders that the Honourable Court may deem fit and proper in the interest of justice.'

2. I have heard the submissions of *Sri K. Naveen Kumar*, learned counsel for the petitioner, the learned Government Pleader for Mines and Geology appearing for the first respondent and the learned Government Pleader for Home appearing for respondent No.2.

3. Learned counsel for the petitioner submits that in a matter of identical facts, this Court while disposing of W.P.No.35329 of 2017, on 06.11.2017, released the vehicle subject to certain conditions and that this writ petition may be disposed of on the same lines in the interest of justice.

4. Learned Assistant Government Pleader appearing for the second respondent would submit that the vehicle is involved in commission of theft of sand and that he has not received instructions as to whether the police concerned, after the seizure of the vehicle, have reported the said seizure of the vehicle to the Court concerned or produced the vehicle before the Court of learned Magistrate.

5. Learned counsel for the petitioner would submit that the petitioner would approach either the Court concerned or the competent authority.

6. Having regard to the facts and submissions and for the reasons alike as were mentioned in the aforesaid order, dated 06.11.2017, this writ petition is disposed of on the same terms with the following conditions:

“In case, the seizure of the tractor and trailer is reported to the Court of the learned Magistrate as per procedure and/or the same are deposited/ produced before the Court, the learned Magistrate concerned shall release and give interim custody of the tractor and trailer bearing No. AP 30W 6074 & AP 30TE 6080 to the petitioner, however, on the petitioner furnishing personal bond and third party sureties to the satisfaction of the learned Magistrate concerned and on further undertaking that he will not alienate or transfer the subject tractor and trailer in any manner and will maintain them in the same good and road worthy condition without changing any of their features and major parts and shall produce them along with its vehicular documents at a specified place or before a specified authority as and when directed. However, in case the seizure of the tractor and trailer is not already reported to the Court concerned as per law and the same are not already produced/ deposited before the Court of the competent Magistrate, the competent authority shall release and give interim custody of the tractor and trailer to the petitioner however, on the petitioner furnishing personal bond and third party surety/ sureties to the satisfaction of the said competent authority and on further giving an undertaking on the same lines as indicated supra. On the petitioner approaching the Court or the competent authority, as the case may be, and making a request, along with a copy of this order, for release of the tractor and trailer, the necessary exercise as indicated supra

shall be completed within two days from the date of the request of the petitioner.”

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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M.SEETHARAMA MURTI, J

Date: 17.11.2017

Note:-

Issue CC by 18.11.2017

(B/o)

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