

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.38772 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 Under Article 226 of the Constitution of India declaring the action of 2nd respondent in detaining machinery (Proclainer) of the petitioner without following any procedure under statutes as illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequential directions to the respondents to grant interim custody of vehicles (tractors and trailers) to the petitioners forthwith.'

2. I have heard the submissions of *Sri M.K. Raj 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 Government Pleader appearing for the second respondent would submit that after the seizure of the vehicle, a crime has been registered and the seizure of the vehicle is reported to the Court concerned on 16.11.2017 and hence, the petitioner has to approach the Court concerned for release of the vehicle.

5. Having regard to the facts and submissions and for the reasons alike as were mentioned in the aforestated 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 Proclainer is reported to the Court of the learned Magistrate as per procedure and/or the same is deposited/produced before the Court, the learned Magistrate concerned shall release and give interim custody of the seized Proclainer 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 Proclainer in any manner and will maintain it in the same good and road worthy condition without changing any of its features and major parts and shall produce it along with its vehicular documents at a specified place or before a specified authority as and when directed. However, in case the seizure Proclainer is not already reported to the Court concerned as per law and the same is not already produced/deposited before the Court of the competent Magistrate, the competent authority shall release and give interim custody of the Proclainer 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 Proclainer, 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.

M.SEETHARAMA MURTI, J

Date: 17.11.2017

Note:-

Issue CC by 18.11.2017

(B/o)

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