

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.40968 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 appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondent No. 1 herein in not passing any orders on the Stay application filed along with the appeal on 3-11-2017 seeking to set aside the order passed by the 2nd respondent dt.20-12-2016 bearing Cr.No. 4932/ 2016/ CFE/ J2, as being illegal, arbitrary and unjust and consequently direct the 1st respondent herein dispose of the stay application filed along with the appeal as expeditiously as possible, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.”

2. I have heard the submissions of learned counsel for the petitioner and of learned Government Pleader for Prohibition and Excise appearing for the respondents. I have perused material record.

3. The facts and submissions, which are necessary for consideration, in brief, are as follows: 'By orders dated 25.11.2016, the Deputy Commissioner, Prohibition and Excise, Chittoor, ordered for confiscation of 45,600 Kgs of Black Jaggery. Aggrieved thereof, the petitioner filed an appeal before the Commissioner of Prohibition and Excise. By the orders impugned, dated 20.12.2016, in C.R.No.4932/ 2016/ CFE/ J2, the Commissioner of Prohibition and Excise, while agreeing with the contention of the petitioner that the confiscation order is unsustainable, had set aside the order impugned to that extent and directed release of the stock of Black Jaggery to the petitioner subject to the condition that the petitioner shall furnish a Bank Guarantee for a sum of Rs.11,50,000/- to the satisfaction of the Deputy Commissioner, Chittoor, pending disposal of the criminal case in Crime No.136/ 2016-17 registered under Section 34(e) of the A.P.Excise Act, 1968, by the Prohibition and Excise Station, Chittoor Urban.'

4. Learned counsel for the petitioner would submit that when the learned Commissioner of Prohibition and Excise agreed with the submissions of the petitioner that the confiscation is illegal, onerous condition of furnishing of Bank Guarantee for the sum equivalent to the value of the Black Jaggery ought not to have been imposed and that the Black Jaggery was seized on 29.06.2017 and that by this date, a portion of the Black Jaggery is spoiled and is not in usable condition and therefore, the said condition may be modified and a reasonable condition may be imposed. He would submit that the petitioner is prepared to furnish a Bank Guarantee for a sum of Rs.3,00,000/- and execute a personal bond with surety for the rest of the amount.

5. Learned Government Pleader, in reply, on instructions, would submit that for 50% of the amount of Rs.11,50,000/-, the petitioner may be directed to furnish a Bank Guarantee.

6. Recording the submission, the writ petition is disposed of partly relaxing the condition imposed in the impugned order and directing the petitioner to furnish a Bank Guarantee for Rs.4,00,000/- (Rupees four lakhs only) in favour of the third respondent – Deputy Commissioner of Prohibition and Excise, Chittoor, and a personal bond with one surety for the balance amount, pending disposal of the proceedings pursuant to the afore-stated crime. On furnishing such Bank Guarantee as well as the bond with one surety as now ordered, the third respondent shall forthwith release the stock of the petitioner, subject to his undertaking that he shall cooperate for the investigation into the crime. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M. SEETHARAMA MURTI, J

Date: 18.12.2017
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