

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.40665 of 2017

ORDER:

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

“...to issue an appropriate writ, order or direction more in the nature of Mandamus, declaring the action of the respondent no.2 in seizing the petitioner Tractor bearing Registration No.AP-03-TD-5917 without following any procedure under statutes as illegal, arbitrary and violative of Article 19(1)(g) of the Constitution of India and consequently direct the 2nd respondent to release the petitioner Tractor bearing Registration No.AP-03-TD-5917 and pass such other order or orders..”

2. I have heard the submissions of *Sri Tenneti Babuji*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Home appearing for the respondents 1 and 2. I have perused the material record.

3. Learned counsel for the petitioner would submit as follows: ‘The tractor was seized, on 24.04.2017, while transporting sand. The petitioner has no knowledge about the transportation of sand. He did not commit any offence. His family is fully dependent on the income derived from the Tractor. He is suffering irreparable loss and hardship on account of the seizure of his vehicle. The vehicle will get damaged if it is allowed to lie in open place. Hence, the writ petition is filed. In cases with identical facts, this Court is releasing the seized vehicles and hence, similar orders may be passed in this writ petition. Further, in view of the free sand policy in the State of Andhra Pradesh, there is no requirement of permit for transportation of sand; and, therefore, the tractor ought not to have been seized.’

4. Further, having placed reliance upon an order, dated 06.11.2017, of this Court in W.P.No.35329 of 2017 it is stated that in that writ petition with

identical facts, this Court gave appropriate directions with regard to the release of the vehicles. He, accordingly, requested for release of the subject vehicle.

5. Learned Assistant Government Pleader representing the respondents would submit that and that after seizure of the Tractor, a case in Crime no.30 of 2017, was registered by the Station House Officer, Gajulamandiyam Police Station for the offence punishable under Section 379 IPC and various other offences, against the petitioner and the seizure of the Tractor is reported to the Court of V Additional Judicial Magistrate of First Class, Tirupati; and that the subject Tractor is already produced before the learned Magistrate and, therefore, the writ petitioner is required to make appropriate application before the Court of the learned Magistrate for release of the subject Tractor.

6. Having regard to the submissions and without expressing any views on the merits of the matter, this Court, at this stage, is satisfied that in the facts and circumstances of the case, the interim custody of the tractor can be given to the petitioner after imposing necessary conditions as release of the seized vehicles by the Magistrates or the authority concerned is a rule and the rejection is an exception. Powers of the Court/ competent authority, wherever and whenever exercisable, are to be properly and promptly exercised to see that vehicles are not kept for a long time, that is, for more than fifteen days to one month at the police station or a public office or the Court house, in any case. Keeping any vehicle idle in an open place exposing it to Sun, Rain and inclement/ rough Weather without any protection would lead to deterioration of its value and irreparable damage. Instead of allowing a vehicle to lie idle and rot in front of a police station or a public office or in the yard of a Court House, it is apposite to give interim custody of the vehicle to an eligible applicant as such a course helps not only in keeping the vehicle in the same good condition but also inures for the benefit of the ultimate successful party.

There are no compelling reasons, in the case on hand, to not to pass an order giving interim custody of the subject vehicles to the petitioner.

7. Accordingly, the Writ Petition is allowed directing the learned V Additional Judicial Magistrate of First Class, Tirupati to release and give interim custody of the tractor bearing Registration No.AP-03-TD-5917 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 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.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

30.11.2017

M. Seetharama Murthi, J

Note:- Issue CC by 04.12.2017
(B/o)
RAR

