

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.42565 of 2017

ORDER:

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

“...to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in seizing the petitioners Lorry bearing Nos. AP-31-TD-5489, AP-31-TA-2448, AP-11-T-7236, AP-31-TA-4446 and AP-16-X-6719 and kept in his custody as arbitrary, illegal and against the principles of natural justice and violates the Articles 14 and 19 (1) (g) of Constitution of India and consequently direct the respondents to release the vehicles of the petitioners and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”

2. At the hearing, learned counsel for the petitioners, learned Government Pleader for Mines and Geology appearing for respondents 1 and 4 and learned Government Pleader for Home appearing for the third respondent are in agreement that the issue involved in the present writ petition is squarely covered by the order, dated 06.11.2017, in W.P.No.35329 of 2017.

3. However, learned Government Pleader for Home, would submit, on instructions, that after the seizure of the vehicles, a case in Crime No.862 of 2017 was registered by the Station House Officer, Pendurthy Police Station, Visakhapatnam District, and that the seizure of the vehicles was reported to the Court of the learned III Metropolitan Magistrate, Visakhapatnam, along with a seizure form as per procedure and therefore, the petitioners are required to approach the Court of the learned Magistrate for release of the vehicles by following procedure established by law.

4. Learned counsel for the petitioners would submit that an option may be given to the petitioners either to approach the competent authority or the learned Magistrate for release of the vehicles.

5. Recording the submissions and by following the earlier orders of this Court in the aforestated writ petition, the Writ Petition is allowed. In case,

the seizure of the lorries 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 lorries bearing Nos. AP-31-TD-5489, AP-31-TA-2448, AP-11-T-7236, AP-31-TA-4446 and AP-16-X-6719 to the petitioners, however, on the petitioners furnishing personal bonds and third party sureties to the satisfaction of the learned Magistrate concerned and on further undertaking that they will not alienate or transfer the subject lorries 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 lorries 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 lorries to the petitioners however, on the petitioners furnishing personal bonds 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 petitioners 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 lorries, the necessary exercise as indicated supra shall be completed within two days from the date of the request of the petitioners.

Pending Miscellaneous petitions, if any, shall stand closed in the light of this final order. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

Date: 19.11.2017
va