

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41772 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased 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.3 in seizing and detaining the petitioner's Tata Hitachi Ex.70 Hydraulic Excavator bearing Sl.No. 0703-4104 without issuing any sort of seizure report and without assigning any reason, as being illegal, arbitrary and unconstitutional and consequently direct the respondents to release the above said vehicle, and to grant such other relief or reliefs as this Hon’ble Court deems fit and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *Syed Ghouse Basha*, learned counsel for the petitioner, the learned Assistant Government Pleader for Mines and Geology appearing for the respondents 1 & 3, and of the learned Government Pleader for Revenue appearing for the respondents 2 & 4. I have perused the material record.

3. Learned counsel for the petitioner submits that the issue involved in this writ petition is squarely covered by the order, dated 06.11.2017, of this Court, passed in W.P.No.35329 of 2017 and requests that this writ petition may be disposed of on the same lines in the interests of justice.

4. Learned Assistant Government Pleader for Mines and Geology appearing for the respondents 1 & 3 would submit that the petitioner herein and the petitioners in W.P.Nos.41705 of 2017 and 41772 of 2017 are repeatedly involving in the offences of illegal transportation

of sand and that on the same day, several vehicles of the said writ petitioners are found involved in the said illegal activities and, therefore, the petitioners are not entitled to release all their vehicles. She would further submit that after the seizures of the vehicles, the police have reported the seizures of the vehicles in all the cases to the Court of the learned Magistrate concerned.

5. Learned counsel for the petitioner would submit that the vehicle is now lying with the 4th respondent.

6. Having regard to the facts and submissions and for the reasons alike as were mentioned in the afore-stated order, dated 06.11.2017, in W.P.No.35329 of 2017, this Writ Petition is disposed of on the same terms with the following conditions:

“In case, the seizure of the vehicle 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 vehicle i.e., Tata Hitachi Ex.70 Hydraulic Excavator bearing Sl.No.0703-4104 to the petitioner, however, on the petitioner furnishing personal bond and third party surety/sureties to the satisfaction of the learned Magistrate concerned and on further undertaking that he will not alienate or transfer the subject vehicle in any manner and will maintain it in the same good and road worthy condition without changing any of their 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 of the vehicle 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 vehicle 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 vehicle, the necessary exercise, as indicated supra, shall be completed within two (02) 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.

JUSTICE M. SEETHARAMA MURTI

Date: 13th December, 2017

KL



105

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.41772 of 2017**Date: 13th December, 2017

KL