

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40910 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.2 in seizing the petitioner Tractor bearing Registration No.AP-03-TB-2432 without following any procedure under statues as illegal, arbitrary and violative of Article 19(1)(g) of the Constitution of India and consequently directing the 2nd Respondent to release the petitioner Tractor bearing Registration No.AP-03-TB-2432 and pass such other order or orders as this Hon'ble Court may deems fit and proper in the interest of justice.”

2. At the hearing, learned counsel for the petitioner would submit that the issue involved in the present writ petition is squarely covered by the orders of this Court, dated 17.11.2017, in W.P.No.38774 of 2017, and made a request to release the subject vehicle also on the same lines and in terms of the orders in the afore-stated writ petition.

3. Learned Government Pleader appearing for the respondents would submit that a group of vehicle owners and drivers are repeatedly committing the offence by illegally transporting sand for commercial purpose and that after the seizure of the vehicles including JCB, tractors etc., a case in Crime No.30 of 2017 was registered for the offences punishable under Section 379 of the Indian Penal Code, and the penal provisions of MMDAR Act, 1957 and the Andhra Pradesh Water, Land and Trees Rules, 2004, and that the seizure of the vehicles including the subject vehicle is reported to the Court of the learned Magistrate. He would further submit that if the released vehicle is found, in future, to be involved in a similar offence, the petitioner shall not be entitled for release of the vehicle in public interest.

4. Learned counsel for the petitioner would submit that the petitioner would approach either the Court concerned or the competent authority for the release of the vehicle by following the procedure established by law.

5. 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.

6. Having regard to the facts and submissions, this writ petition is disposed of with the following conditions:

“In case, the seizure of the tractor 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 tractor bearing No. AP 03 TB 2432 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 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. However, in case the seizure of the tractor 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 tractor 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 tractor, 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: 05.12.2017

Note:-

Issue CC today

(B/o)

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