

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.40810 of 2017

ORDER:

This writ petition is filed seeking verbatim the following relief/s:

‘...to issue an order, writ or direction more particularly in the nature of Writ of Mandamus under Article 226 of the Constitution of India declaring the action of 2nd respondent in not releasing the vehicle, Tractor (Mahindra & Mahindra) bearing No.AP 28 X 1646 and Trailer No.AP 28 X 1647 of the petitioner in spite of specific direction by Hon’ble First Class Magistrate, Chevella in C.C.No.136 of 2016 dated 13-09-2016 to hand over case property to the persons entitled illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequential directions to the respondents to grant interim custody of vehicles (tractor and trailer) to the petitioners and pass such other order or orders.....’

I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Home representing the 2nd respondent.

From the submissions and material record it is discernable that admittedly the vehicle which was given towards interim custody to the petitioner was taken possession by the police during the course of the trial in Calendar Case No.136 of 2016 on the file of the Court of the learned Judicial Magistrate of First Class, Chevella. By a judgment, dated 17.08.2017, the said Calendar Case was finally disposed of and the learned Magistrate directed that the case property, M.Os 1 to 4, if are given to the persons, who are entitled to, the same shall be made absolute subject to result of appeal. It is stated that no appeal is filed and pending and that the judgment of the learned Magistrate has become final. As per the appendix of the judgment in the said Calendar Case, M.Os 1 to 4 are tractors and trailers. The present tractor and trailer is one of the afore-stated Material Objects is undisputed. In view of the disposal of the Calendar Case and as the petitioner was earlier granted interim custody and as per the judgment of the learned Magistrate, the petitioner is

entitled to release of the vehicle for good, this Court is of the considered view that the request of the petitioner in this writ petition merits consideration.

In the result, the Writ Petition is disposed of granting liberty to the petitioner to approach the Court of the learned Judicial Magistrate of First Class, Chevella, and file an appropriate application for release of the subject vehicle finally to him; on the petitioner filing such application in accordance with the procedure established by law, the learned Magistrate shall forthwith release the vehicle finally in favour of the petitioner subject to any reasonable conditions to his satisfaction, keeping in view the fact that the calendar case is finally disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

15.12.2017

Note: Issue CC by 18.12.2017

(B/o)

Vjl

M. SEETHARAMA MURTI, J

