

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.759 of 2018

ORDER:

This writ petition is filed seeking the following relief:

“..to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring action of the 2nd Respondent in Rc.No.A1/855/2017, dt. 14.12.2017 rejection the Application of the petitioner for release of the Motor Cycle bearing Registration No.AP-03-CE-3710 seized in Cr.No.64 of 2017 in spite of my readiness to furnish the third party surety, as being illegal, arbitrary and unjust, consequently to set aside the order of the 2nd Respondent in Rc No.A1/855/2017, dt. 14.12.2017 by allowing him to furnish third party surety and release the vehicle and grant such other relief or reliefs as this Hon'ble Court may deems fit and proper in the circumstances of the case.”

2. Learned counsel for the petitioner fairly submits that by the impugned order, dated 14.12.2017, the Deputy Commissioner of Prohibition and Excise, Chittoor, rejected the request of the petitioner for release of the vehicle. However, he submits that this Court, exercising jurisdiction under Article 226 of the Constitution of India, is having powers to release the vehicles having regard to the facts and submissions and that as of now, no confiscation order is passed.

3. However, learned Government Pleader for Prohibition and Excise appearing for respondents 1 and 2 brings to the notice of this Court the provision in Section 63 of the Andhra Pradesh Excise Act, 1968, and submits that against the impugned order, there is an efficacious alternative remedy of appeal and therefore, the petitioner has to approach the appellate authority.

4. Having regard to the facts and submissions, the writ petition is disposed of reserving liberty to the petitioner to prefer an appeal assailing the impugned order, dated 14.12.2017, of the Deputy Commissioner of Prohibition and Excise, Chittoor. It is made clear

that the appellate authority, in the event any appeal is preferred by the petitioner, shall consider and dispose of the appeal as expeditiously as possible and preferably, within two weeks from the date of filing of such appeal, considering the nature of the subject matter.

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

M. SEETHARAMA MURTI, J

Date: 05.01.2018

Note: Issue CC in two days

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