

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.725 of 2018

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, the petitioners herein prays that the Hon’ble Court may be pleased 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 detaining machinery (Excavator bearing L & T Komatsu PC 71) of the petitioner without following any procedure under statutes as illegal, arbitrary and violative of Article 19, 21 of Constitution of India and consequential directions to the respondents to grant interim custody of vehicles (Excavator bearing L & T Komatsu PC 71) to the petitioners for with.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *M.K.Raj Kumar*, learned counsel appearing for the petitioner, the learned Government Pleader for Mines and Geology appearing for the 1st respondent, and of the learned Government Pleader for Home appearing for the 2nd respondent. I have perused the material record.

3. At the hearing, learned counsel for the petitioner, learned Government Pleader for Mines and Geology appearing for the 1st respondent, and the learned Government Pleader for Home appearing for the 2nd respondent are in agreement that the issue involved in the present writ petition is squarely covered by the orders, dated 06.11.2017, in W.P.No.35329 of 2017.

4. However, learned Government Pleader for Home would submit, on instructions, that after the seizure of the

machinery/Excavator, a crime was registered by the 2nd respondent.

5. Learned counsel for the petitioner would submit that an option may be given to the petitioner either to approach the competent authority or the learned Magistrate for release of the vehicle.

6. Recording the submissions and by following the earlier orders of this Court in the afore-stated writ petition, the Writ Petition is allowed as indicated infra: 'In case, the seizure of the vehicle/Excavator/machinery 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 machinery/vehicle-Excavator bearing L & T Komatsu PC 71 to the petitioner, however, on the petitioner furnishing personal bond and third party surety to the satisfaction of the learned Magistrate concerned and on further undertaking that he will not alienate or transfer the subject vehicle-Excavator 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 documents at a specified place or before a specified authority as and when directed. However, in case the seizure of the vehicle-Excavator 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 same to the petitioner, however, on the petitioner furnishing personal bond and third

party surety 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/machinery-Excavator, the necessary exercise, as indicated supra, shall be completed within two (02) days from the date of the request of the petitioner.'

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: 4th January, 2018

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Note: Issue C.C. on 11.01.2018.

(B/o.)
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