

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.25389 of 2018

ORDER:

An Order passed by the Deputy Commissioner, Prohibition and Excise, Mahabbnagar – R.2 refusing to consider the application of the petitioner for grant of interim custody of the vehicle, dated 10.07.2018, is under challenge in the present Writ Petition.

Earlier, the petitioner filed W.P.No.15395 of 2018 questioning the action of the 2nd respondent herein in not releasing the subject vehicle. The said Writ Petition was disposed of by this Court by way of an Order, dated 13.06.2018, directing the 2nd respondent herein to consider the representation, dated 20.02.2018, made by the petitioner herein for release of the subject vehicle. Now, by way of an Order under challenge, passed by the 2nd respondent vide proceedings Cr.No.B4/52/2018, dated 10.07.2018, the 2nd respondent rejected the request of the petitioner for release of the subject vehicle. It is also brought to the notice of this Court that on 13.06.2018 vide Cr.No.B4/52/2018, the 2nd respondent issued a notice calling upon the petitioner herein to show cause as to why the vehicle should not be confiscated. It is submitted by the learned Counsel for the petitioner that in response to the said show cause notice, the petitioner herein offered an explanation, dated 13.06.2018, requesting the 2nd respondent to drop further proceedings of confiscation.

In the present Writ Petition it is submitted by the learned Counsel for the petitioner that the Order impugned in the Writ

Petition is highly erroneous and contrary to law and the 2nd respondent did not mention any reason for refusing to consider the request of the petitioner for release of the vehicle pending confiscation proceedings.

A perusal of the order impugned in the Writ Petition clearly disclosed that the 2nd respondent herein except referring to the powers under the statute, did not say anything with regard to the request of the petitioner and its sustainability in the impugned Order.

Since, the confiscation proceedings are pending before the 2nd respondent and taking into consideration the request of the learned Counsel for the petitioner to order release of the vehicle subject to furnishing bank guarantee, the Writ Petition is disposed of, directing the 2nd respondent herein to give interim custody of the vehicle to the petitioner herein subject to furnishing Bank Guarantee for the value of the vehicle to be assessed by the concerned M.V.I. and on production of the relevant documents in support of ownership and subject to giving an undertaking that he will not alienate nor create any third party rights and the petitioner shall not alter the major parts of the vehicle. It is open for the 2nd respondent herein to pass final orders in the confiscation proceedings, in accordance with law.

Miscellaneous Petitions pending consideration, if any, in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE A.V.SESHA SAI

Date :09.08.2018

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