

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.44898 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 and Trailer bearing Registration No.TS-04-UB-2069 without following any procedure under statutes as illegal, arbitrary and violative of Article 19(1)(g) of the Constitution of India and consequently direct the 2nd Respondent to release the petitioner Tractor and trailer bearing Registration No.TS-04-UB-2069 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 and learned Government Pleader for Home appearing for the second respondent are in agreement that the issue involved in the present writ petition is squarely covered by the order of this Court, dated 17.11.2017, in W.P.No.38774 of 2017. A copy of the said order of this Court is placed on record.

3. However, learned Government Pleader for Home would submit that after the seizure of the vehicle, which is involved in the commission of theft of sand, a crime has been registered and the seizure of the vehicle is reported to the Court concerned and that the vehicle is produced before the Court of the learned Magistrate concerned.

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

“In case, the seizure of the tractor and trailer is reported to the Court of the learned Magistrate as per procedure and/or the same are deposited/produced before the Court, the learned Magistrate concerned shall release and give interim custody of the tractor and trailer bearing No. TS-04-UB-2069 to the petitioner, however, on the petitioner furnishing

personal bond and third party sureties to the satisfaction of the learned Magistrate concerned and on further undertaking that he will not alienate or transfer the subject tractor and trailer in any manner and will maintain them in the same good and road worthy condition without changing any of their features and major parts and shall produce them 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 and trailer 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 tractor and trailer 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 and trailer, 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: 02.01.2018

Note:-

Issue CC by 03.01.2018

(B/o)

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