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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.M.C. 1320/2010

HDFC BANK LTD. Petitioner
Through: Mr. Punil Kumar Bhalla, Advocate

versus

STATE Respondent
Through: Mr. Sunil Kumar Sharma, APP for State
Mr. Arvind Kumar Gupta, Advocate

CORAM:
JUSTICE SHIV NARAYAN DHINGRA

ORDER
11.11.2010

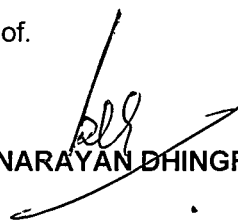
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The vehicle in question was financed by the petitioner. It was found to have been purchased by Shaukat Hussain through Mr. Samuel Manul Bendish, a front man of him out of the proceeds of criminal activities. The vehicle was confiscated and seized by the police under MCOCA. It was released on superdari initially in favour of the petitioner. Later on, the trial court directed that the vehicle be handed over to the State. The petitioner has approached this Court against the order of learned trial court directing him to hand over the vehicle to the State.

It is not in dispute that quite a few installments of this vehicle have been received by the petitioner and the petitioner has a right to receive the balance amount payable to the petitioner under the agreement. It is directed that the vehicle shall be handed over by the petitioner to the State. The State shall sell the vehicle as per law only by way of public auction and out of the proceeds of sale of vehicle the amount payable to the petitioner shall be paid and rest shall be confiscated by the State. However, the petitioner shall handover the vehicle to the State within one week and the State shall make endeavour to dispose of the vehicle within six weeks thereafter in accordance with procedure under MCOCA.

With above directions, this petition stands disposed of.

Dast.


SHIV NARAYAN DHINGRA, J

NOVEMBER 11, 2010
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— Fresh CM.M.A. 9116/2011 — seeking Compliance of order dt. 11/11/2010.

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Signing Date: 06.08.2024 17:06:00
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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ , CRL.M.C. 1320/2010

HDFC BANK LTD.

..... Petitioner

Through Mr. Pranav Proothi, proxy counsel.

versus

STATE

..... Respondent

Through Mr. Navin Sharma, APP for State.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

ORDER

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28.02.2013

Crl. M.A. No. 9116/2011

By this application filed under Section 482 Cr.P.C., the petitioner seeks compliance of the order dated 11.11.2010.

In response to the present application, the State has filed the status report. As per the status report filed by the State the stand taken is that after having undertaken various procedures and formalities the auction of the vehicle in question was entrusted to the District Nazir, Divisional Commissioner's Office, GNCT of Delhi and vide letter no. F.1(5)/Auction/DN/DC/NA/2011/05 dated 13.2.2013 the OIC

12

(Nazarat)/SDM-IV(HQ) intimated the police that the highest bid quoted by the bidder was Rs. 4.50 lacs during the public auction which was much lower than the reserved price determined by the T.O.(TPT). It is stated that the vehicle in question could not be auctioned in these circumstances and another attempt can be made to auction the vehicle.

Counsel for the petitioner submits that the police has already taken more than two years to auction the said vehicle and the delay on the part of the police would further deprecate the value of the said vehicle. Counsel also submits that the custody of the vehicle in question should be given to the petitioner so that the petitioner, who became the owner of the said hypothecated vehicle, can sell the same by public auction so that the amount received from the auction of the said vehicle can be adjusted against the outstanding loan amount of the bank.

Heard.

This court passed the following order vide order dated 11.11.2010.

“The vehicle in question was financed by the petitioner. It was found to have been purchased by Shaukat Hussain through Mr. Samuel Manul Bendish, a front man of him out of the proceeds of criminal activities. The vehicle was confiscated and seized by the police under MCOCA. It was released on superdari initially in favour of the petitioner. Later on, the trial court directed that the vehicle be handed over to the State. The petitioner has approached this Court against the order of learned trial court directing him to hand over the

13

vehicle to the State. It is not in dispute that quite a few installments of this vehicle have been received by the petitioner and the petitioner has a right to receive the balance amount payable to the petitioner under the agreement. It is directed that the vehicle shall be handed over by the petitioner to the State. The State shall sell the vehicle as per law only by way of public auction and out of the proceeds of sale of vehicle the amount payable to the petitioner shall be paid and rest shall be confiscated by the State. However, the petitioner shall handover the vehicle to the State within one week and the State shall make endeavour to dispose of the vehicle within six weeks thereafter in accordance with procedure under MCOCA.

With above directions, this petition stands disposed of.”

The police has taken more than two years to auction the said vehicle from the date of the passing of the said order and the court cannot be oblivious of the fact that any further delay in auctioning the vehicle will further lead to depreciation of the value of the vehicle in question. At the same time the interest in the loan amount of the borrower with the petitioner bank will also be mounting up and therefore in the interest of justice, order dated 11.11.2010 requires modification. The police is accordingly directed to hand over the custody and possession of the vehicle in question to the petitioner bank within a period of two weeks from the date of this order and after taking possession of the said vehicle, the petitioner shall be at liberty to sell the vehicle by public auction and then adjust the loan amount from the sale proceeds of the said vehicle.

With the above direction, the present application stands disposed of.

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KAILASH GAMBHIR, J

FEBRUARY 28, 2013/mg