

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 11TH DAY OF FEBRUARY 2015/22ND MAGHA, 1936

WP(C).No. 29721 of 2014 (M)

PETITIONER(S):

**JESNA, AGED 27 YEARS,
W/O.RAFEEK, THERIYIL VEEDU, KULAMANCODU,
PARAPPARA P.O., THOLICODU, NEDUMANGAU,
THIRUVANANTHAPURAM.**

BY ADV. SRI.THIRUMALA P.K.MANI.

RESPONDENT(S):

- 1. MANAGER, L & T FINANCE,
NEAR GANAPATHY TEMPLE, BAKERY VAZHUTHACAUDU ROAD,
VAZHUTHACAUDU, THIRUVANANTHAPURAM-695 018.**
- 2. L & T FINANCE LTD.,
5TH FLOOR, CITY TWO, PLOT NO. 177,
VIDHYA NAGARI MARG, CST ROAD, KALEENS,
SANDACRUZ (E), MUMBAI - 400 098, MAHARASHTRA.**
- 3. SUB INSPECTOR OF POLICE,
VITHURA POLICE STATION, NEDUMANGADU,
THIRUVANANTHAPURAM - 695 541.**
- 4. CIRCLE INSPECTOR OF POLICE,
PALODU, NEDUMANGADU TALUK,
THIRUVANANTHAPURAM - 695 541.**
- 5. SUPERINTENDENT OF POLICE,
THIRUVANANTHAPURAM RURAL,
OFFICE OF THE SUPERINTEND OF RURAL,
THIRUVANANTHAPURAM - 695 001.**

**R1 & R2 BY ADV. SRI.T.RAJESH.
R3 TO R5 BY SR. GOVT. PLEADER SMT.ANITHA RAVINDRAN.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1: TRUE PHOTOCOPY OF THE STATEMENT OF ACCOUNTS
DATED 14/03/2014 ISSUED BY THE 1ST AND 2ND RESPONDENT.
- EXHIBIT P2: TRUE PHOTOCOPY OF THE ORDER NO. A NO. 1319 OF 2014
DATED 24/02/2014 ISSUED BY HON'BLE HIGH COURT OF MADRAS.
- EXHIBIT P3: TRUE PHOTOCOPY OF NOTICE DATED 03/04/2014 ISSUED BY
THE 1ST AND 2ND RESPONDENTS.
- EXHIBIT P4: TRUE PHOTOCOPY OF THE LETTER DATED 15/04/2014 ISSUED BY
THE ADVOCATE COMMISSIONER SEIZING THE VEHICLE.

RESPONDENT'S EXHIBITS:-

- EXT.R1A COPY OF THE RELEASE LETTER ISSUED BY THE
ADVOCATE COMMISSIONER.
- EXT.R1B COPY OF THE NOTICE ISSUED BY THE ARBITRATOR TO
THE PARTIES.
- EXT.R1C COPY OF THE AWARD OF ARBITRATOR DATED 18/07/2014.

//TRUE COPY//

P.A TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.29721 of 2014

Dated this the 11th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. Appropriate Writ or Order quashing the Ext.P4 and direct the Respondents to re-deliver Hundai R80.7 Hydraulic Excavator baring Machines Ariel No.N101D00145 Vehicle to the petitioner and permit her to remit the over due loan amount as instalments and direct the 1st and 2nd respondents to accept the regular instalments of the loan by regularizing her Ext.P1 Loan Account.

ii. Such other relief's as this Hon'ble Court deems fit and proper in the nature and circumstances of the case."

2. The learned counsel appearing for the 1st and 2nd respondents submits that, there is absolutely no merit or bonafides in the writ petition and that the vehicle has been seized pursuant to the orders passed by the High Court of Tamilnadu as evident from Ext.P2. The learned counsel further submits that, the respondents do not have any objection to have the loan account regularised, if the 'overdue' amount is cleared and some additional security is provided in the form of immovable property.

3. The learned counsel for the petitioner submits that the petitioner is ready to satisfy the 'overdue' amount and is prepared to furnish additional security.

4. In the said circumstances, the petitioner is set at liberty to clear the 'overdue' amount in respect of the defaulted instalments forthwith, and to furnish additional security, to the satisfaction of respondents 1 and 2, upon which, the custody of the vehicle, which is stated as already taken over by the said respondents, shall be restored to the petitioner forthwith. It is made clear that, the petitioner shall continue to effect the regular monthly instalments without fail. If at all any two consecutive defaults are made with regard to the regularise instalments to be paid, it will be open for the respondents¹ and 2 to proceed with further steps for realization of the entire amount in lump, by pursuing such steps from the stage where it stands now.

The writ petition is disposed of.

**P.R. RAMACHANDRA MENON,
JUDGE**

sp