

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 31102 of 2014 (K)

PETITIONER(S) :

RENJINI, AGED 24 YEARS,
W/O.MANILAL, KALLAMPOTTA VILA VEEDU,
HOUSE NO.1/155, VELAYANI, VANDITHADAM
NEAR SIVA TEMPLE,
VIZHINJAM, NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM.

BY ADVS.SRI.THIRUMALA P.K.MANI
SRI.DDIPU

RESPONDENTS:

1. SUB INSPECTOR OF POLICE, THIRUVALLAM
POLICE STATION, THIRUVANANTHAPURAM-695 027.

2. CIRCLE INSPECTOR OF POLICE,
NEMOM, THIRUVANANTHAPURAM 695 020.

3. MANAGER,
MAHENDRA AND MAHENDRA FINANCIAL SERVICE LIMITED,
2ND FLOOR, NANDANAM TOWERS, DHANYA-REMYA
THEATREROAD, KUNNUMPURAM,
THIRUVANANTHAPURAM-695 017.

4. M/S.MAHENDRA AND MAHENDRA FINANCIAL
SERVICE LIMITED, GATE WAY BUILDING,
APPOLO BUNDER, MUMBAI-400001.

R1 & R2 BY GOVERNMENT PLEADER SMT.ANITHA RAVINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY
HEARD ON 10-02-2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

WP(C) .No. 31102 of 2014 (K)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P-1: TRUE PHOTOCOPY OF LOAN SANCTIONING LETTER DATED 3.6.2013 ISSUED BY THE 1ST RESPONDENT.

EXT.P-1(a): TRUE PHOTOCOPY OF THE STATEMENT OF ACCOUNT ISSUED BY THE 3RD RESPONDENT DATED 23.12.2013 OF THE LOAN AVAILED BY THE HUSBAND OF THE PETITIONER.

EXT.P-2: TRUE PHOTOCOPY OF THE GOODS CARRIAGE PERMIT ISSUED BY THE MOTOR VEHICLES DEPARTMENT, GOVERNMENT OF KERALA DATED 13.12.2013.

EXT.P-3: TRUE PHOTOCOPY OF ORDER DATED NIL PASSED BY THE ARBITRATOR M.S.SWARNALATHA.

RESPONDENT(S) ' EXHIBITS:

NIL

//true copy//

P.S. to Judge

K. HARILAL, J.

W.P.(c) No.31102 of 2014-K

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner is the co-borrower of a loan availed from the 3rd respondent private finance company for purchasing a lorry bearing registration No.KL01 BL 9650. Her husband is the main borrower of the above said loan. It is the case of the petitioner that even though the loan was sanctioned in May, 2013, the vehicle was delivered only in July, 2013 and permit was issued in December, 2013. Thus, the vehicle could not be plied for a period of 7 months and thereby she has committed some default in the repayment of the loan amount. The 3rd respondent initiated arbitration proceedings at Chennai and

obtained Ext.P3 order appointing a Receiver to take custody of the vehicle with police aid. According to her, she is prepared to pay the actual arrear of amount due, if she has been given sufficient time. But the 3rd and 4th respondents are not inclined to grant any time to pay the instalments. It is also alleged that the 3rd and 4th respondents with the help of the respondents 1 and 2 are trying to take possession of the vehicle from the custody of the petitioner by force. The respondents 1 and 2 have no statutory duty to assist the 3rd and 4th respondents for taking possession of the vehicle by force, even though she has committed default in repayment of the loan amount.

2. Heard the learned counsel for the petitioner. Going by the averments in the petition, it is seen that the reliefs are sought against the 3rd and 4th respondents who are private parties against whom writ of mandamus or direction cannot be issued under Art.226 of the Constitution of India. No relief is sought

against the respondents 1 and 2 who are public servants under the State Government. Merely on the reason that the public servants are also included in the party array, no direction can be issued to the 3rd and 4th respondents as prayed for in the writ petition. But at the same time, it is made clear that the respondents 1 and 2 have no statutory duty to assist the 3rd and 4th respondents for taking possession of the vehicle by force, unless they get any order directing them to render police aid to take custody of the vehicle, issued by the competent authority in accordance with law. This writ petition is devoid of merits.

This writ petition is dismissed accordingly.

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge